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*VIA ELECTRONIC SUBMISSION*

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

April 11, 2024

**Re: Notice of Proposed Rulemaking: Real-Time Public Reporting Requirements and Swap Data Recordkeeping and Reporting Requirements (RIN 3038-AF26)**

Dear Mr. Kirkpatrick,

Eurex Clearing AG (“Eurex Clearing”) appreciates the opportunity to provide comments to the U.S. Commodity Futures Trading Commission (“CFTC” or “Commission”) regarding the Commission’s Notice of Proposed Rulemaking: Real-Time Public Reporting Requirements and Swap Data Recordkeeping and Reporting Requirements published on December 28, 2023 (“Proposal”).<sup>1</sup> Eurex Clearing has been a fully registered derivatives clearing organization for swaps with the CFTC since 2016 and also qualifies as a central counterparty (“QCCP”) pursuant to Regulation (EU) No. 648/2012 of the European Parliament and of the Council of 4 July 2012 on OTC derivatives, central counterparties, and trade repositories (“EMIR”). Eurex Clearing is one of the leading CCPs globally, clearing the broadest scope of products under a single framework in Europe and accepting the world’s widest spectrum of eligible collateral.

Eurex Clearing welcomes the Commission’s Proposal, which seeks to further the Commission’s goal to receive accurate and high-quality data on swap transactions for its regulatory oversight role as well as to address international swap reporting developments. Eurex Clearing additionally applauds the Commission for its consistent work to harmonize CFTC regulations with

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<sup>1</sup> Notice of Proposed Rulemaking: Real-Time Public Reporting Requirements and Swap Data Recordkeeping and Reporting Requirements, 88 Fed. Reg. 90046 (Dec. 28, 2023).

international standards and specifically, with respect to the Proposal, commends the Commission for consistently working to harmonize over-the-counter (“OTC”) derivatives data elements to develop uniform global guidance regarding the definition, format, and usage of key OTC derivatives data elements for reporting purposes.

Eurex Clearing limits its specific comments below to the proposed amendments to Section 1.3.3 (Repeating data elements or leg-based products) of the CFTC Technical Specification.

### **Definition of Legs of a Swap in Section 1.3.3 (Repeating Data Elements or Leg-Based Products) of the CFTC Technical Specification**

Eurex Clearing respectfully disagrees with the Commission’s definition of the legs of a swap proposed in Section 1.3.3 of the Technical Specification, which Eurex Clearing believes conflicts with existing ISDA convention and international practice. The proposed amendment to Section 1.3.3 provides:

For products having two legs where one leg references a fixed value and the other leg references a floating value, Leg 1 elements should refer to the leg that references a fixed value and Leg 2 elements should refer to the leg that references a floating value. For products having two legs where each leg references a floating value respectively, the legs should be ordered based on the alphabetical ordering of the names of the respective underliers. In cases where the names of the respective underliers are the same, but they are differentiated by a tenor, Leg 1 elements should refer to the leg referencing the underlier with the shorter tenor.

Eurex Clearing interprets this proposed amendment to provide that, for any product with two legs where each leg references a floating value, the legs would be defined based on *alphabet* and *tenor*.

Eurex Clearing respectfully provides that this would contradict ISDA convention and would cause a disruption for many market participants that have global reporting obligations across jurisdictions. ISDA convention defines the legs for basis swaps based on *spread* and *tenor*, as opposed to alphabetical ordering and tenor.<sup>2</sup> ISDA convention is then to use first the highest absolute spread and second the shorter tenor period. Eurex Clearing uses and has as its long-standing practice used ISDA convention and its definition of the legs for basis swaps. Eurex Clearing believes other market participants use ISDA convention as well. Adoption of a different definition for CFTC reporting that utilizes alphabetical ordering rather than spread would lead to different reporting requirements under EMIR and for the Commission.

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<sup>2</sup> See Excel Document: EMIR EU and UK Reporting Industry Best Practices matrix- November 2021, Tab “Leg 1 Leg 2 alignment”, Row 15, Column 3, at [EMIR Reporting Best Practices – International Swaps and Derivatives Association \(isda.org\)](#).

Eurex Clearing applauds the Commission for consistently seeking to harmonize rules where possible across the globe. Eurex Clearing believes that nowhere is such harmonization more important than for reporting requirements, as many market participants operate globally and thus have reporting requirements across jurisdictions. Accordingly, Eurex Clearing strongly encourages the Commission to align Section 1.3.3 of the Technical Specification and the definition of the legs of basis swaps with ISDA convention.

In conclusion, Eurex Clearing reiterates its appreciation for the opportunity to provide information and comments on the Proposal and looks forward to working with the Commission on other proposals and initiatives in the future.

Yours faithfully,

A handwritten signature in blue ink, appearing to read 'E. Seinsheimer', is positioned above the typed name.

Eric Seinsheimer  
Director, Legal (Americas), Eurex &  
US CCO, Eurex Clearing AG