



March 2, 2020

Christopher Kirkpatrick  
Secretary of the Commission  
Commodity Futures Trading Commission  
Three Lafayette Center  
1155 21<sup>st</sup> Street NW  
Washington, DC 20581

RE: Post-Trade Name Give Up On Swaps Execution Facilities (RIN 3038-AE79)

To Whom It May Concern:

The Americans for Financial Reform Education Fund (“AFR”) appreciates the opportunity to comment on the above referenced Proposed Rule (the “Proposal” or “Rule”) concerning the Commodity Futures Trading Commission’s (“CFTC” or “Commission”) prohibition of post-trade name give up on Swaps Execution Facilities (“SEFs”). Members of AFR Education Fund include consumer, civil rights, investor, retiree, community, labor, faith based, and business groups.<sup>1</sup>

In our comment of March 15, 2018 responding to the Request for Comment on this issue, AFR stated our strong support for a prohibition on post-trade name give up.<sup>2</sup> We continue to support this prohibition and strongly approve of the current proposal to require that SEFs maintain counterparty anonymity for all swaps that are executed anonymously and intended to be cleared. As stated in our previous comment, we believe that name give up for swaps is anti-competitive, advantages dealer insiders, and undermines the price discovery and systemic risk benefits of exchange trading by discouraging liquidity provision from entities outside of a small circle of “too big to fail” large bank dealers.

We support the proposed rule in its entirety. In addition to numerous supportive comments from buy-side and public interest entities that are reviewed in the rule, the discussion and review of academic research in the rule’s cost-benefit analysis provides ample justification demonstrating the benefits of anonymous trading in complex financial markets. The arguments cited by SIFMA in support of name give-up are notably unconvincing, in particular the argument that large dealers need to know counterparty identity so that they can provide better pricing to customers with whom they have “strong relationships”. We would note that this blunt statement of price discrimination on the part of dealers also implies that large dealers could be willing to

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<sup>1</sup> A list of coalition members is available at: <http://ourfinancialsecurity.org/about/our-coalition/>

<sup>2</sup> AFR Education Fund, “Letter Re Swap Execution Facilities and Trade Execution Requirement; Request for Comment on Name Give-Up”, March 15, 2018, available at <https://bit.ly/2PJ8NqG>

discriminate negatively against clients who they observe are placing competitive bids in non-anonymous trading. In our view this supports a requirement for anonymous trading. Further, permitting price discrimination in markets is not generally seen as beneficial to fairness, competition, or liquidity.

*(1) Does post-trade name give-up undermine the Commission's stated goals of impartial access to (i) ensure market participants can compete on a level playing field, and (ii) allow additional liquidity providers to participate on SEFs? Please explain why or why not, and include any supporting data.*

Yes, we believe that post-trade name give up undermines impartial access and reduces the number of competitive liquidity providers on SEFs. Post-trade name give up exposes liquidity providers to several risks, including the risk of retaliation from large competitors and the risk of revealing information relevant to trading strategies to competitors. Smaller liquidity providers and new entrants would tend to be more vulnerable to these dangers. In addition, smaller liquidity providers that cannot promise benefits to SEFs such as large amounts of order flow lack the ability to negotiate for more favorable terms of access, such as provisions for fully anonymous trading for part or all of their orders.

*(2) Should the Commission narrow the scope of the proposed prohibition on post-trade name give-up to apply only to swaps that are required to be cleared under section 2(h)(1) of the Act, or alternatively, only to swaps that are subject to the trade execution requirement under section 2(h)(8) of the Act? Why or why not?*

No, the Commission should not narrow the scope of the proposed prohibition. The economically significant element of a swap transaction, which makes anonymity possible, is the fact that the transaction is cleared. Clearing replaces the original counterparties to the transaction with the CCP, meaning the identity of the counterparties is irrelevant. What is important is whether the swap is cleared; whether is technically required to be cleared by the Commission or mandated for trading by the Commission is an administrative factor that is irrelevant to the economics of the transaction. Many more swaps are cleared than are required to be cleared and certainly than are required to be traded. Limiting the prohibition on name give-up to the subset of cleared swaps subject to CFTC administrative requirements would lessen the competitive benefits of anonymity without any economic justification.

*(5) Please explain the nature of any potential new liquidity on SEFs that may result from the proposed prohibition. For example, would liquidity increase due to a greater number of market participants trading and/or would liquidity increase due to additional market makers competing on affected SEFs?*

We believe that true anonymity would lead to a significant increase in the number of entities willing to make markets at least occasionally or for particular assets, and also generally to trade on SEFs. The very strong buy side support for anonymous trading evidenced in the comments to the 2018 Request and likely to this rule proposal strongly suggests that there would be an

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increase in new entrants, in liquidity, and in competition. We believe that comments by large dealer banks opposing this proposal also provide indirect evidence that the proposal would facilitate new entrants providing competitive liquidity with existing dealers, as this is a likely motivation for opposing the proposal.

In sum, we urge the Commission to finalize this proposed rule unchanged in order to ensure the competitive and price discovery benefits of trading anonymity on SEFs.

Thank you for the opportunity to comment on the Proposal. If you have questions, please contact Marcus Stanley, AFR's Policy Director, at 202-466-3672 or [marcus@ourfinancialsecurity.org](mailto:marcus@ourfinancialsecurity.org)

Sincerely,

Americans for Financial Reform Education Fund