Tradeweb

1177 Avenue of the Americas
New York, NY 10036

phone: 646.430.6000
fax: 646.430.6250
e-mail: help@tradeweb.com
www.tradeweb.com

September 30, 2017

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

Re: Project KISS – 82 Fed. Reg. 21494 (May 9, 2017) and 82 Fed. Reg. 23765 (May 24, 2017) (RIN 3038-AE55)

Dear Mr. Kirkpatrick:

Tradeweb Markets LLC ("***Tradeweb***") welcomes the opportunity to submit a letter describing how the existing rules, regulations, or practices of the Commodity Futures Trading Commission ("***Commission***" or "***CFTC***") could be applied in a simpler, less burdensome, and less costly manner ("***Project KISS***"). We note, however, that, in accordance with the parameters set out CFTC's Project Kiss request for comment, Tradeweb is not commenting herein on specific rules or seeking revocation, suspension, annulment, withdrawal, limitation, amendment, modification, conditioning or repeal of any such rules. Rather, Tradeweb has provided its remarks in this letter in line with Chairman Giancarlo's stated goal of taking "existing rules *as they are* and applying them in ways that are simpler, less burdensome and less of a drag on American economy."[1] To the extent the CFTC proposes new rules with respect to Part 37 or the SEF regime more generally, Tradeweb will provide specific comments to such rule proposal(s).

* * * * *

Since 1998, Tradeweb has been at the forefront of creating electronic trading solutions which support price transparency and reduce systemic risk, which are the hallmarks of Title VII of The Dodd-Frank Wall Street Reform and Consumer Protection Act (the "***Dodd-Frank Act***")[2]; accordingly, Tradeweb has been supportive of the Dodd-Frank Act and its stated policy objectives relating to Title VII. Tradeweb also has been an active participant in the ongoing public debate around swap execution facilities ("***SEFs***"), how best to bring greater transparency and accountability to the derivatives market, and the implementation of Title VII of the Dodd-Frank Act. Tradeweb has two SEFs that were granted permanent registration on January 22, 2016 – TW SEF LLC and DW SEF LLC. Accordingly, Tradeweb believes it is well-suited to provide comments in connection with Project KISS.

1 Remarks of Acting Chairman J. Christopher Giancarlo before the 42nd Annual International Futures Industry Conference in Boca Raton, FL, March 15, 2017, at http://www.cftc.gov/PressRoom/SpeechesTestimony/opagiancarlo-20.

2 Pub. L. 111-203, 124 Stat. 1376 (2010).

A Principles-Based Approach Will Reduce Costs, and Foster More Innovation and Efficiency in the Global Swaps Market

As a general matter, Tradeweb believes that the CFTC's Title VII rulemaking has fostered many of the policy goals of Dodd-Frank, and that the swaps trading regulatory framework – which has been broadly adopted – has advanced those policy goals. However, because some of the rules and associated implementation have been prescriptive, the marketplace has been and in some respects, continues to be, subject to unnecessary burdens and increased costs associated with the execution of a swap.

In regulating the trading of swaps, the Commodity Exchange Act requires that SEFs adhere to both general "core principles" as well as specific rules and regulations imposed by the CFTC. This combination of rules and principles is an attempt to balance the need for legal certainty and clarity, and flexibility.[3] Therefore, Tradeweb recommends that the regulation of SEFs and swap execution (and any proposed amendments to existing rules) generally going forward should employ a "principles-based" approach rather than a prescriptive "rules-based" approach. A principles-based approach is also in line with the policy framework set forth in then-Commissioner Giancarlo's 2015 White Paper on swaps trading rules.[4]

Provided the Commission is mindful of the costs associated with any changes in its current approach, such a regime is desirable for several reasons. First, less-prescriptive regulation of SEFs will allow for innovation and competition among SEFs, which will be free to find the best solutions to market issues. Second, more principles-based regulation will allow for effective government oversight without unduly constraining the natural evolution of the swaps market; the nature of this market does not lend itself to a one-size-fits-all approach. Third, a principles-based approach for substituted compliance related to swaps trading will reduce fragmentation and serve the global swaps market well.

For example, a "principles-based" substituted compliance regime for swaps venues would allow for efficiencies in execution and global liquidity for swaps transactions, especially as Europe and Asia swaps trading rules become effective globally. Similarly, the CFTC's review of swap data reporting fields and requirements (which need to simplified and better standardized for SEFs and SDRs alike) should also coincide with international requirements and other jurisdictions in order to reduce the burdens associated with trading in the global swaps market. In other words, the CFTC should ensure that the fields reported under the CFTC regulations are the same or substantially similar to those required under the reporting rules of other jurisdictions. Such an approach will reduce costs of compliance, provide for a more efficient reporting regime, and improve transparency (for the regulators and market participants alike).

The use of prescriptive rule-making and prescriptive interpretive guidance in shaping market conduct can interfere with the efficient operation of swaps markets, and unnecessarily increase costs

---

3 See 78 Fed. Reg. 33476, 33477 (June 4, 2013) (stating that "In consideration of both the novel nature of SEFs and its experience in overseeing DCMs' compliance with core principles, the Commission carefully assessed which SEF core principles would benefit from regulations, providing legal certainty and clarity to the marketplace, and which core principles would benefit from guidance or acceptable practices, where flexibility is more appropriate.")

4 See , Giancarlo, Christopher J. *White Paper on Pro-Reform Reconsideration of the CFTC Swaps Trading Rules: Return to Dodd-Frank*, January 29, 2015 at http://www.cftc.gov/idc/groups/public/@newsroom/documents/file/sefwhitepaper012915.pdf.

associated with the implementation and supervision of such requirements. For example, the CFTC issued guidance in 2013 stating that "any trade that is executed on a SEF or DCM and that is not accepted for clearing should be void ab initio." While the stated purpose of the guidance was to provide more legal certainty regarding the status of swaps rejected from clearing, the guidance created operational, financial and compliance costs and burdens for market participants that had their trades rejected from clearing due to readily correctible clerical or operational errors. In response to industry feedback, the CFTC issued no-action relief allowing trading venues to execute a "corrected" swap without adhering to the prescribed execution methods specified under CFTC Regulations 37.9(a)(2) or 38.500. In this case, well-intentioned guidance had to be scaled back through no-action relief because it was too prescriptive and unduly restricted the ability of swaps trading venues to operate.[5]

The Commission now has the benefit of several years of swaps trading rule implementation when assessing what has worked and what has not. As the Commission looks forward to enhancing its Title VII rule regime, Tradeweb encourages the Commission to start with cross-border equivalence, then move to the areas where they have had to issue no-action relief, and finally to the principles laid out in Chairman Giancarlo's White Paper – all the while, balancing the costs of future implementation and compliance against the changes to the existing infrastructure developed since Dodd-Frank was enacted. As the Commission well knows, each aspect of reporting, execution, and clearing impacts the other. A principles-based approach should allow the Commission and market participants to achieve the goals of Dodd-Frank in a more cost effective, balanced manner.

* * * * * *

If you have any questions concerning our comments, please feel free to contact the undersigned. Tradeweb welcomes the opportunity to participate in the roundtables or working groups to discuss specific rule changes, and discuss these issues further with the Commission and its staff.

Respectfully submitted,

Douglas Friedman
General Counsel

cc: Honorable J. Christopher Giancarlo, Chairman
Honorable Brian D. Quintenz, Commissioner
Honorable Rostin Behnam, Commissioner

---

5 Tradeweb would submit that, in general, while Staff guidance and no-action letters have been – and can be – very helpful to guide market participants, such guidance and no-action letters should provide sufficient notice and lead time for market participants to implement and adapt to any recommended changes or clarifications.