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**TO:**

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

7 February 2011

**Re: RIN 3038-AD19 – 17 CFR Part 45 – Swap Data Recordkeeping and Reporting Requirements**

**And**

**RIN 3038-AD08 – 17 CFR Part 43 Real-time Public Reporting of Swap Transaction Data**

Dear Mr. Stawick

The Global Foreign Exchange Division was formed in co-operation with the Association for Financial Markets in Europe (“**AFME**”), the Securities Industry and Financial Markets Association (“**SIFMA**”) and the Asia Securities Industry and Financial Markets Association (“**ASIFMA**”). Its members comprise 21 global FX market participants<sup>1</sup>, collectively representing more than 85% of the FX market<sup>2</sup>.

The Global Foreign Exchange Division is committed to ensuring a robust, open and fair market place. We welcome the goal of the Commodity Futures Trading Commission (the “Commission”) to enhance regulatory oversight and promote greater transparency and are keen to stress that the Global Foreign Exchange Division and its members are committed to supporting the establishment of an SDR to accommodate the foreign exchange asset class. Accordingly, we welcome the opportunity to comment on the Notice of Proposed Rulemaking in respect of **Swap Data Recordkeeping and Reporting** and **Real Time Reporting of Swap Transaction Data** (together referred to herein as the “**SDR rules**”) as issued by the Commission to implement

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<sup>1</sup> Bank of America Merrill Lynch, Bank of New York Mellon, Barclays Capital, BNP Paribas, Citi, Credit Agricole, Credit Suisse, Deutsche Bank, Goldman Sachs, HSBC, JP Morgan, Lloyds, Morgan Stanley, Nomura, RBC, RBS, Société Générale, Standard Chartered Bank, State St., UBS, and Westpac

<sup>2</sup> According to Euromoney league tables

provisions of Title VII of the Dodd-Frank Wall Street Reform and Consumer Protection Act (“**Dodd-Frank Act**”).

In relation to the applicability of the proposed SDR rules to the foreign exchange market, we believe that there are some critical issues that are particularly relevant and to which due consideration should be given in advance of promulgating any final rules. We are aware and supportive of the comments submitted by ISDA and SIFMA in their joint response (the “**Joint Response**”). In order to minimize duplication, we have sought to focus our comments in this letter to those that we believe are of particular relevance to the foreign exchange market.

As a final comment, we have responded to both rules on recordkeeping and reporting and real time reporting given that the two issues are intrinsically linked and there are significant areas of overlap for requested comment between the two documents. We have structured this letter in three sections: (i) general comments that apply to both proposed rules (ii) comments focused more towards recordkeeping and reporting and (iii) comments focused more towards real time reporting. We have submitted this letter under both proposed rules.

## **General comments**

### **1. Scope**

We believe the market would benefit from greater clarity on the scope of the legislation with regard to FX instruments. For example, a Foreign Exchange Forward is defined under the Dodd-Frank Act as “a transaction that solely involves the exchange of 2 different currencies on a specific future date at a fixed rate agreed upon on the inception of the contract covering the exchange.” Strictly speaking, this definition is broad enough to cover FX spot transactions settling next day or T+2, despite the fact that consistent with common market definitions, practice and understanding, FX forwards are transactions with value dates greater than T+2. Accordingly, we would welcome a clear statement from the Commission that spot transactions with value dates less than or equal to T+2 are excluded. We would further note that certain FX transactions supporting securities settlements may settle on up to a T+5 basis (consistent with securities settlement timelines) and consideration should be given to granting an exclusion for these supporting FX trades as well.

We would also like to highlight the need for clarity around the asset class definitions and their constituents, particularly in respect of cross-currency swaps. These are dealt with in more detail in sections 5.2 and 5.3.

#### *1.1. No real time reporting obligation for FX forwards and swaps*

Although we address the application of both proposed reporting requirements to the FX market, it is our understanding that only the Swap Data Recordkeeping and Reporting requirement (and not the Real Time Reporting requirement) will apply to FX Forwards and Swaps should the US Treasury Department make a determination to exclude these products from the “Swaps” definition under the Dodd-Frank Act. Confirmation by the Commission of the scope of the reporting obligations on those FX products that may be excluded by Treasury would further advance clarity in the market.

### *1.2. Obligations relating to non-US participants*

To avoid any ambiguity we believe the Commission should explicitly state that only transactions where at least one party is a US based person or US based entity are eligible for the reporting and real-time public dissemination of trade data. FX transactions between entities which are not US domiciled should fall outside the remit of a US regulatory body, even where the US dollar may be one of the underlying currencies.

### *1.3. Inter-affiliate transactions and transaction thresholds*

There is a high volume of transactions in FX compared to any other asset class. Consideration needs to be given to which trades are material from a systemic risk perspective. Only transactions settling with an un-affiliated third party should be considered for public reporting. Many millions of trades occur daily between different affiliates of the same institution which are not relevant to that institution's external market positioning; we would appreciate the Commission confirming that inter-affiliate foreign exchange trades are not subject to the public reporting requirements.

Furthermore, we suggest considering the setting of a notional threshold (subject to periodic revision) so that the noise of small scale retail FX transactions is filtered out, leaving SDRs to focus on materially significant transactions. In the absence of such a threshold, the data set is likely to be overwhelming. A notional threshold of USD1m or equivalent would be a reasonable, initial starting point.

## **2. Key FX challenges for SDRs**

In addition to the high transaction volumes highlighted above which differentiate FX from other asset classes, the universe of participants in the FX market is also significantly wider given that FX forms the basis of the global payments system. This presents a practical challenge to ensuring that all relevant reporting participants are able to report. It also means that consistent counterparty identifiers become even more important.

These issues of scale in participants and volumes make reporting requirements significantly more onerous and costly for market participants and should be taken into account when the Commission is promulgating its final rules.

Potentially the biggest architectural issue relates to position versus trade data. It is not clear at this stage what, if any, position data is required to be reported to or generated by the SDR in relation to FX. However, if position data is required by regulators, the rules should leave flexibility for SDRs to infer position data from trade data, gather it separately or do a mixture as appropriate. This will allow SDRs to provide complete and useful position data before backfilling of historic trade data and allows the provision of useful position data if some trades are not reported to the SDR. Requiring the SDR to generate or calculate meaningful positions from the trade population may be unrealistic:

- It requires sufficiently complete trade population
- Non-linear risks (e.g. FX options) cannot be simply aggregated across repositories

- Position information needs to show net bilateral positions across asset classes (requires consistent counterparty mapping, combined trade population, consistent parameters)

Given all of these issues, the Commission must be clear as to the types of information that it requires, which will enable participants and SDRs to determine how best to deliver it.

### **3. Implementation period and phasing-in period**

It is difficult to comment on the appropriate phase-in period until the rules and associated obligations have been finalized. However, in general terms, the phase-in period should be sufficient to afford the industry the time needed to build the technology infrastructure required to comply with regulations. The SDR is a new, critical market infrastructure whose implementation across FX and potentially other asset classes will provide valuable regulatory and other information to the Commission, other regulators and market participants. The industry should be granted the requisite amount of time to build the appropriate infrastructure to avoid the risk that the initial data repository proves inadequate and further resources and expense must be dedicated by the industry to achieve the desired repository structure. This is particularly pertinent for FX given:

- the scale issues that are involved in building reporting capability for a market with as many transactions and participants as FX
- the absence of any existing trade or swap data repository infrastructure (unlike in rates, equity and, of course, credit).

While the FX industry has developed specialized and bespoke infrastructure to support its differing underlying client bases, these systems have not been developed for the purpose of aggregating and reporting data in the manner prescribed under the proposed regulations. Although the current FX infrastructure may be able to be leveraged for the purposes of SDR reporting, the FX industry will still need to dedicate extensive time, resources and expense to construct the robust framework required to meet these new reporting requirements.

The phase-in period should take account of the work needed for FX market participants to establish connectivity to the SDR, once the final standards for data provision are known, including the determination of unique identifiers, as well as the time needed for the SDRs themselves to be properly established. This should then be followed by establishment of minimum reporting requirements and large block thresholds and finally implementation of public dissemination. In this way, the Commission would be able to make due and appropriate consideration of the different asset classes and their underlying instruments.

To put this into context, we note that the Credit Derivatives Trade Information Warehouse was implemented using a phase-in approach; new trades for dealers were first sent to the warehouse 12 months after work commenced and phased implementations over the following two years addressed on-boarding of clients and back-loading of trade populations. At the very least, similar timeframes should be considered for the implementation period for the Foreign Exchange market given the lack of existing infrastructure for reporting and due to the significantly higher volumes of transactions that need to be reported.

The Global Foreign Exchange Division, on behalf of its members, has commenced discussions with potential providers of SDR services to dimension current capacities and scope the technology build that will be required. As we embark on building an appropriate, cost-effective market framework for compliance with the SDR rules, we would welcome the opportunity to work with the Commission to ensure the Commission is sufficiently informed of the progress of development to set an appropriate phase in schedule for compliance.

One final element of phase-in that should be considered is a gradual phase-in of the targeted timeframe for reporting information. By analogy with TRACE, the time required for reporting when the system was first introduced was 75 minutes, and over a period of several years this was reduced to 15 minutes as evidence was compiled that such reductions could be safely achieved technologically and without adverse market impact. The reporting requirements set out in the rules are significantly more complex than for TRACE, therefore the phase-in should reflect this degree of complexity.

#### **4. Confidentiality of data**

We note that concerns related to jurisdictional differences concerning confidentiality of counterparty data and the ability to report such data remains to be fully addressed, not least in Europe, where data privacy issues are likely to present significant issues to access to data. Clearly, resolving these issues will be paramount in advance of the final rules.

#### **5. Definitions**

##### *5.1. Terminology*

Definitions used for affirmation, execution and confirmation should reflect the underlying conventions that are prevalent in the FX market, which may be different to those used in other asset classes.

##### *5.2. Foreign exchange swaps and cross currency swaps – asset class definitions*

We would ask for further clarity from the Commission in classifying an “FX swap.” An FX swap is an FX transaction with a counter FX transaction at a later date and accordingly belongs in the same category of FX products such as FX forwards and options.

FX swaps are distinct from cross currency swaps. Cross currency swaps are interest rate products with multi payment schedules, traded by interest rate desks with interest rate market participants; captured and managed in interest rate systems infrastructure with interest rate conventions. FX swaps are foreign exchange products, traded by distinct FX desks with different market participants using different internal and external systems infrastructure. As such, cross currency swaps should be reported in the interest rate asset class while FX swaps should be reported in a separate FX asset class.

##### *5.3. Criteria to classify a swap within a certain asset class*

Within FX a sub-classification system should exist as set out below. We would suggest that categories be proposed by an industry organization sufficiently familiar with the FX market, such as the Global FX Division or ISDA.

- Currency-pair: specifying major currency-pairs vs. all other currencies
- Tenor or tenor-ladder - For the FX market, which, compared to other asset classes, is of a much shorter tenor, the tenor ranges should be:
  - Short term: <3mths
  - Medium term: 3-12mths
  - Long term: >1yr
- Size relative to minimum or relative to average market notional
- For options, driven by product risk characteristics so as to ensure differentiated reporting.
  - 1st Generation Options
  - Baskets
  - Digitals
  - Volatility – FVAs and Variance Swaps
  - Exotics
- Deliverable/non-deliverable

## **6. Determination of which counterparty must report**

For FX, there are significant implementation issues in determining which counterparty should report if they are of the same hierarchy (e.g. SD to SD). In other asset classes, there is usually a distinct buyer and seller of a swap. In credit, where the majority of trades are conducted by SDs and MSPs, the seller of protection is usually responsible for loading the trade into existing market infrastructure e.g. MarkitWire or DTCC. Real-time systems would typically capture trade details (i.e. the primary economics) and feed these into MarkitWire. The buyer of protection then affirms the trade and this constitutes legal confirmation.

Each FX swap consists of a near and far leg. Market conventions will need to be established to determine whether both legs should be reported by which counterparty (potentially based on an agreed hierarchy of currency pairs i.e. buyer or seller of major currency reports) or whether the swap transaction is reported separately as two legs by two counterparties with two separate trade IDs. This is further complicated by the fact that trade capture systems may book the swap as a single trade but split it into two trades in back-office systems with two separate trade IDs and, moreover, that these systems vary across the range of market participants.

## **7. Requirement for an SDR to accept all swaps in an asset class**

We agree with the Commission's suggestion to require an SDR to accept all swaps of an asset class if any swaps of this asset class are accepted. This will avoid fragmentation of the SDR landscape, creating additional work for the reporting entity to find an appropriate SDR as well as overhead for the regulators to consolidate the data from many different sources.

### *7.1. If no registered SDR or third party service provider is available to accept and disseminate data*

In a situation where no registered SDR is available the trade should be reported in an end-of-day manner only - via the daily snapshot process or whichever process is chosen as the preferred route for FX products.

## **17 CFR Part 45 – Swap Data Recordkeeping and Reporting Requirements**

### **8. Recordkeeping and access to data**

The current requirement for real time access to swap data within two years from the termination of the swap should be shorter e.g. for a 30-day period following termination of the swap. Beyond this initial period, the value of real-time data falls off significantly. Because of the ticket volumes in FX, the longer the trade retention period the more severe is the performance degradation of the service and its ability to report data in a timely fashion. Aggregate data for trend-line and historic analysis can be stored as required with the ability to request underlying records from an offline data store. This approach would provide a pertinent view into market and system risk without the overhead of micro-data retention.

The initial focus should be on the SDs and MSPs and these requirements should be phased in for non-SD/MSP counterparties. This will cover the majority of the traded volume while keeping the number of involved parties manageable at the beginning.

#### *8.1. Access to data in the SDR*

Regulation 49.17(f)(2) indicates that reporting parties are only allowed to see data in an SDR that each has submitted. We would suggest that each counterparty be allowed to view all data pertaining to swaps where it is a counterparty (or otherwise involved), not only where this data has been submitted by that counterparty. This will allow each counterparty to have transparency to all swaps that another counterparty might claim were executed with it and thereby facilitate portfolio reconciliations.

### **9. Swap data reporting**

#### *9.1. Confirmations*

The proposed rules require legal confirmation data to be reported to the SDR. It is unclear, in the absence of a golden record store, what the Commission or the SDR expects to receive in respect of FX. We would welcome clarification on this point but believe that confirmation status should be provided as part of continuation data reporting (currently proposed as snapshot for FX) rather than requiring submission of confirmation details. It is also unclear as to whether reporting is required post issuance or post matching of the confirmation.

#### *9.2. Use of daily snapshot of state data for FX*

The daily snapshot approach is an appropriate initial approach for capturing data for FX swaps. However, we would also suggest that given the importance of the data repository to regulatory transparency, it is vital that the Commission does not over prescribe a solution but allow the FX market to develop the best approach over time.

#### *9.3. Error reporting*

While it is understandable that the Commission should desire prompt reporting of trade data to the repository, we believe a balance should be struck between ensuring accuracy at the repository and timeliness of reporting. This will assist in minimizing reporting errors.

We support the Commission's desire for accuracy of records and the prompt reporting of any errors. However, we would note that while errors should be promptly rectified, most participants' systems will not usually record the reason for such an amendment. Accordingly, we recommend this information should be omitted. Reporting parties should also not be responsible for data which is inaccurately transcribed or corrupted after it has been submitted to an SDR, and also have no duty to correct data errors of which they are unaware.

## **10. Unique identifiers**

### *10.1. USIs*

Given the dispersed nature of liquidity in the FX market, there are a number of challenges that USI create:

- How to assure uniqueness of identifier at each registered entity such that there is no risk of "recycling" of identifiers – which would create conflicts during the reporting cycle at the SDR. The fact that the USI is a two-part alpha numeric, one of which is the counterparty ID, should eliminate the risk of duplication; a problem could however exist if the SDR is multi asset and different systems from the same reporting counterparty are generating USIs.
- For SD-SD direct execution (or brokered execution) the requirements stipulate that the reporting party creates the USI. However, as discussed, the issue is developing appropriate industry rules to identify the reporting party.
- Given the need for immediate trade capture, the USI proposal creates two potential workflows, each with attendant difficulties:
  - Assignment of the USI at the point of order submission – enabling the USI to carry with any done trade. This has the benefit of making known the USI upfront, ensuring that real-time trade submission can take place without delay. However, as an order may be cancelled or hit, there is an issue of USI not being sequential and or containing gaps in the SDR which removes the ability to act as an audit trail of reportable events
  - The second would be to assign the USI at trade execution, removing the risk of USI gaps and sequence issues. However, this creates an issue in terms of how and when the USI is applied to the trade. For the purposes of risk management, most firms will book the trade upon receipt of message that their price has been hit at point of match. This implies a secondary workflow to append the USI to the trade post-booking of the risk – introducing a delay in reporting to the SDR and a risk that the USI can be misapplied leading to reporting disputes and complex operational procedures to identify and correct the issue.

This illustrates the significant amount of development work that will be necessary. Generating USIs would require additional functionality being built into (i) front end systems to generate these identifiers (which is new functionality), and (ii) back office processing systems in order to be able to record and match this field. In addition, systems will need to be able to receive USIs where not the reporting party and feed them downstream. This is in addition to the functionality required for identifying and reporting UCIs and UPIs. Non-reporting counterparties



would likewise need to build functionality in systems in order to be able to extract and update records with this field.

### *10.2. UCIs*

We agree with the Commission that having a market-wide counterparty identifier would be beneficial. In a first phase, we suggest using existing BIC codes as UCIs. BIC codes fulfil many of the requirements listed for UCIs (e.g. one BIC code can only be used by one legal entity). They are already assigned to a number of counterparties and a formula exists (and is implemented in most back offices) for creating BIC codes for non-SWIFT members. Focusing on SDs and MSPs in the initial phase, most if not all reporting entities should already have a BIC code registered.

We also understand that SWIFT is extending BIC coverage to a new Legal Entity Identifier (LEI), which is intended to become the industry standard providing a central LEI directory. We are supportive of these efforts.

### *10.3. UPIs*

We propose the following classification scheme for FX products:

#### **FX Cash**

- Forward / Swap
- NDF
- Window Option

#### **FX Options**

- 1st Generation
- Basket
- Digital
- Vol
- Exotic

## **11. Third party facilitation of swap data reporting**

In general, we would expect SD and MSPs to develop the technological functionality required to meet the reporting requirements, despite the cost and operational burdens.

There are various scenarios that would make third party data reporting beneficial for FX swaps. Non-SD/MSPs executing a low-volume of trades, for instance, may not have, or desire to build, the necessary infrastructure to fulfil the reporting requirements. Such participants may find the build-out costs to be prohibitive, or will prefer to avoid them. Accordingly, we support the proposal that third-party vendors may be designated to act as their agent. This will be particularly prevalent given the number of market participants in FX.

While it is difficult to anticipate the market structure that may develop in this area pending the promulgation of the final rule requirements, SEFs, exchanges, clearing agencies, brokers, and stand-alone data reporting vendors are all potential providers of this service, either across asset classes or for particular products or transaction states (e.g. with respect to cleared trades).

Consideration should also be given as to whether a particular entity such as a SEF or a clearing agency will hold the authoritative record of a trade and whether that information should be leveraged for reporting purposes.

## **12. Reporting to a single SDR**

In order for an SDR to be in a position to provide regulators with meaningful information, all data for a given swap must be reported to the same SDR, particularly when considering the requirements to confirm the accuracy of data submission and other operational complexities.

The best means of achieving this goal would be to have a single data repository allowing access to information to all authorized regional regulators. We believe this will provide the most meaningful source of reporting information.

However, if there is to be more than one SDR receiving trade information for FX, we note the following complexities:

- If the initial reporting party is a SEF, which accordingly determines the destination SDR for a given swap, each other party with reporting obligations must ensure that it is capable of connecting to the chosen SDR.
- Multiple SDRs make it harder to ascertain quickly where a trade has not been reported rather than reported to another SDR.

## **13. Required data standards**

As the Commission contemplates potentially several data repository providers, it should allow each the freedom to determine how parties will connect – be it existing market infrastructure or newly built protocols. Cost of implementation and ownership will drive data repository selection by the market. We believe there should not be a restriction on the use of data standards other than to prevent the use of proprietary formats, although the Commission could, as deemed appropriate, provide guidelines as to the selection of appropriate technologies.

## **14. Master Reference Generic Data Fields List – data fields for inclusion**

We would request clarification of the following:

- How does the Commission propose reporting trades whose tenor sits between two futures contract dates?
- Should reporting parties calculate the futures equivalent weighted to each contract date and supply the aggregate number of contracts in both periods?
- What should be the case for products where multiple futures contract exist (e.g. CME and ICE, CME-mini)?
- What should be the case for products where no futures product exists?

## **17 CFR Part 43 Real-time Public Reporting of Swap Transaction Data**

### **15. General comments**

The foreign exchange market operates in an open and transparent way. Clients can access pricing data via data distribution vendors such as Bloomberg and Reuters. In addition, several ECNs exist which provide broad market access to a wide selection of dealers. Streaming prices are delivered in real-time providing firms with benchmark and ability to identify best-execution.

Care should be taken in crafting legislation such that new registration requirements or technology specifications do not have a detrimental impact on market transparency and price discovery by reducing the number of available providers.

It should be noted that while broad product coverage is appropriate, it is not appropriate to have uniform treatment within product types. The same product has very different risk and liquidity characteristics when transacted in different currencies, timescales and sizes and the regulatory environment needs to be crafted with this in mind.

### **16. Order and format for public dissemination of data**

Overall, the technical requirements and specification should be left to the disseminator. It will be focused on optimizing message publication to meet functional, technical and regulatory requirements. Moreover, requirements may differ across asset classes. It is important that any reporting output should not require reconfiguration of reporting inputs into the SDR or third party disseminator.

#### *16.1. Proposed data fields to be reported in real time*

For FX, option products are included within the definition of a swap. Table A1 of Appendix A to the real time reporting proposed rules does not include option related primary economic data and Table A2 only considers embedded options.

As regards tenor being reported with only month and year, in illiquid markets this is a necessary, but not sufficient, condition to protect anonymity of parties to a trade. In keeping with standard market convention, the trade data should be mapped to a tenor ladder for public dissemination with longer dated products mapping to one-year or two-year, for example, rather than specific month and year.

### **17. Block trades and large notional swaps**

Determining the appropriate exemptions for block trading and large notional swaps is critical to preserving liquidity for end-users. Sub-optimal disclosure may hinder a market maker's ability to hedge, impacting liquidity or increasing end-user costs to compensate for increased risk. It cannot be stressed enough how some corners of the FX market have very low liquidity and the adverse impact immediate public reporting would have on dealers' abilities to make reliable markets for end-users. Moreover, the transparency proposed by the current rules may conflict with the requirements of the Dodd-Frank Act not to identify market participants' positions and to preserve their anonymity.

Exemptions and delays should be tailored not just to asset classes but to categories of types of swaps within those asset classes. A one-size-fits-all approach is almost certain to be inappropriate given the different levels of liquidity in different markets. While there is a dependency on how the sub-categorization of the swap products is defined, there will be material differences in both minimum block size and large notional size which have a direct impact on the market's ability to absorb hedge activity and therefore should affect reporting requirements. For FX, dynamic reporting periods and block sizes based on liquidity factors and taking into account size to average notional in the market is clearly appropriate when considering different types of transaction and the full range of currency pairs.

We have insufficient data and analysis to comment on the appropriateness of the proposed time delays and on the calculation of minimum block sizes for FX at this time. To ensure a more efficient and effective market for end-users, we believe it is critical for the Commission to mandate further analysis and research before setting these parameters. We suggest independent academic research to determine the appropriate methodologies for determining block size thresholds, public dissemination delays and the information publicly disseminated for block trades. The key determining factors would need to be reviewed but for FX could initially cover the following:

- Currency pair – for example, G10 currencies are more liquid than emerging market currencies. Emerging market currencies might also be split into different levels of liquidity by currency.
- Product – Forward, swap, vanilla/1st generation option, NDF, basket option, digital option, exotic option.
- Notional size and tenor.
- Time of day / year – influence of changing volumes intra-day and across periods.
- Strike price – impact on liquidity of strike price.

We consider this of vital importance to the efficient and smooth functioning of the market and are willing to make ourselves and our members available to assist the Commission in this regard.

#### *17.1. Phasing and implementation*

We believe that given the breadth of the proposed reporting requirement, a phased approach (as with SDRs) would be sensible. This should focus on implementing the infrastructure to enable the transparency and oversight desired by regulators, followed by establishment of minimum reporting requirements and large block thresholds and finally implementation of public dissemination. In this way, the Commission would be able to make due and appropriate consideration of the different asset classes and their underlying instruments.

#### *17.2. Limit on aggregate notional or principal volume over previous year*

The Commission seeks comment on whether an additional standard should be adopted which would limit the aggregate notional or principal amount of block trades and large notional swap transactions to a percentage of the overall notional or principal volume over the prior year. There should be no limit on the aggregate notional amount based on the volume of the prior year due to the fact that historical data provides no indication of future market conditions, activity or volatility.

### *17.3. Consistent implementation of block sizes across multiple SDRs*

The Commission should seek to coordinate and facilitate discussion amongst the various SDRs supporting an asset class. A working group defining best-practices, including potentially minimum block sizes for SDRs supporting a given swap instrument, will ensure compatibility in public dissemination as well as ensuring interoperability for both data publication into the various SDRs as well as outbound publication from the same SDRs.

### *17.4. Concept of block trades should exist for newly-listed swaps*

For truly newly-listed swaps there is a market of one single trade. The Commission should allow for elasticity while a new market develops. At inception, the market should look for proxy rules to determine minimum block and large notional designation. As the volumes pick-up and more direct information is available, then the newly-listed swap's definition should be derived from the market turn-over.

### *17.5. One month time period for calculating appropriate minimum block size*

Setting a time horizon is artificial. The appropriate minimum block size should be derived when there is a minimum amount of trade data to support making a reasonable determination of how the market executes and how it will develop. Volumes traded in new swap instruments are typically low when they are first introduced; consequently, data should be collected for a sufficient period of time to be able to determine how a new instrument will be traded.

We believe that the appropriate minimum block sizes should be calculated by an independent organisation.

### *17.6. Review of block sizes*

The Commission is proposing that SDRs review block sizes annually. We believe that specific block size thresholds should be updated more frequently than this to take account of changing liquidity in markets.

### *17.7. Requirement to consult with swap markets in calculating the appropriate minimum block size of a swap instrument*

Assuming that there are multiple SDRs, this would mean that only a sub-section of the FX market was available for analysis by the SDR with the result being a greatly skewed minimum threshold determination. SDRs should therefore be required to consult, assuming that it remains their obligation to determine minimum block sizes. Should an SDR make a determination, the market should have the right of appeal to challenge the minimum threshold designated by the SDR.

Furthermore SDRs should submit their formula to the Commission and the Commission (or an independent body) should validate those for consistency amongst SDR supporting a particular asset class.

## **18. Ensuring the anonymity of parties to the swap**

We agree with the reporting of less specific information with regard to the underlying asset and tenor data fields. This is essential to protecting the anonymity in the marketplace, ensuring liquidity in thinly traded areas of the market and minimising the potential for market manipulation.

In mandating reporting, the Commission should retain flexibility on the specificity of data reported. In certain circumstances, this may mean reporting certain fields according to a range. In limited circumstances, this may mean reporting no information at all. This will be the case for option strikes and premium levels and currency fields for transactions involving non-major currencies, amongst others.

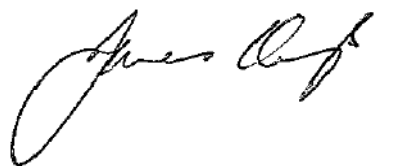
## **19. Major currencies**

The list of major currencies is as follows: USD, EUR, GBP, CHF, DKK, SEK, NOK, CAD, JPY, AUD, NZD.

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We appreciate the opportunity to share our views on the proposed rules relating to SDRs. Please do not hesitate to contact me at +44 (0) 207 743 9319 or at [james.kemp@afme.eu](mailto:james.kemp@afme.eu) should you wish to discuss any of the above.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'James Kemp', with a stylized flourish at the end.

James Kemp

Managing Director

Global Foreign Exchange Division