

January 24, 2022

**VIA ELECTRONIC SUBMISSION  
COMMODITY FUTURES TRADING COMMISSION (Comments Portal: <https://comments.cftc.gov>)**

**Re: Commodity Futures Trading Commission’s Request for information and comment (17 CFR Part 50, RIN 3038–AF18) on the Swap Clearing Requirement To Account for the Transition From LIBOR and Other IBORs to Alternative Reference Rates**

### **Introduction**

The Global Association of Central Counterparties (“CCP12”) appreciates the opportunity to contribute to the request for information and comments by the Commodity Futures Trading Commission (“Commission” or “CFTC”) - **Swap Clearing Requirement To Account for the Transition From LIBOR and Other IBORs to Alternative Reference Rates (RIN 3038–AF18)**<sup>1</sup>.

### **CCP12 and its general support for clearing mandate on RFR swaps**

CCP12 is the global association for CCPs, representing 41 members who operate around 60 individual central counterparties (CCPs) globally across the Americas, EMEA and the Asia-Pacific region.

CCP12 generally supports the CFTC’s effort to establish the new clearing mandates to reflect the transition of swaps referencing LIBOR to the relevant nominated successor “Risk-Free Rates” (RFRs or Alternative Reference Rates). CCP12 would like to emphasize in this context the importance of clearing and is supportive of a smooth transition, which is aligned between global standard setting bodies and regulators in different jurisdictions across the world.

### **Benefits of clearing**

Under G20 commitments agreed in Pittsburgh in 2009 after the Global Financial Crisis, CCPs globally have acted as the safer and more transparent infrastructure for centralized clearing of swaps as opposed to bilateral arrangements, especially for interest rate swaps. This segment is the most advanced in terms of the rate of clearing by swap counterparties<sup>2</sup>, who are incentivized to clear because of the clear risk management protections, obvious benefits of multilateral netting for centrally cleared transactions, and the reduced capital requirements for clearinghouse exposures under the Basel III capital framework, among other benefits. In addition, the implementation of mandatory clearing requirements and initial margin requirements for uncleared swaps has prompted adoption of central clearing.

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<sup>1</sup> CFTC, Swap Clearing Requirement To Account for the Transition From LIBOR and Other IBORs to Alternative Reference Rates (RIN 3038–AF18), available at [Link](#)

<sup>2</sup> BIS, Statistical release: OTC derivatives statistics at end June 2021; Central clearing of interest rate and credit derivatives, Shares, in per cent, Graph 3, available at [Link](#)

**Amendment to the CFTC clearing mandate for the transition from LIBOR to RFRs**

CCP12 would like to emphasize the importance of clearing and is supportive of a smooth transition from LIBOR rates to relevant RFRs, which is aligned between global standard setting bodies and regulators in different jurisdictions.

CCP12 views that the adoption of swaps referencing Alternative Reference Rates in the Clearing Requirement could beneficially affect activity of swaps referencing those rates. CCP12 members, including CCPs registered as DCOs, generally provide support for clearing of overnight index swaps (“OIS”) referencing Alternative Reference Rates and, as such, are able to manage the risks associated with clearing those swaps. As acknowledged by the CFTC, at this time a majority of the swaps subject to the Clearing Requirement fall within the fixed-to-floating swap class or FRAs, however, the majority of CCP cleared swaps referencing new Alternative Reference Rates are characterized as OIS and therefore this should be a consideration of the Commission in determining any additions or changes to the Clearing Requirement.

Central clearing provides highly reliable and transparent arrangements, enabling regulators to access the swap data of each market participant. The transition of cleared swaps from LIBOR to Alternative Reference Rates has now largely been completed for non-USD currencies. Therefore, CCP12 would like to recommend that the CFTC makes its assessment for amendments to the Clearing Requirement based on the most recent data available (i.e., post-LIBOR transition / from January 2022, rather than those data referenced in the Commission request for information and comments). The CFTC may consider the swap trading and clearing activity of any entity that is part of a U.S. banking group, including those entities not registered as swap dealers. The CFTC may request this data on swap clearing activity with Alternative Reference Rates from DCOs as necessary to evaluate amendments to the Clearing Requirement.

Given the global nature of swap markets, CCP12 would like to again emphasize the importance of international cooperation and coordination to ensure a harmonized transition from LIBOR to RFRs. As such, the CFTC should take into consideration whether each relevant currency’s home country regulator is mandating the clearing of swaps referencing the relevant Alternative Reference Rate. For instance, ESMA<sup>3</sup>, the Financial Services Agency (Japan)<sup>4</sup>, and the Bank of England<sup>5</sup>, among others, have already announced updates to their clearing mandates. CCP12 is in favour of a harmonised treatment of swaps across jurisdictions, as this would reduce the burden for market participants of complying with clearing mandates (or lack thereof) across multiple jurisdictions, as well as enhancing the safety and transparency of the swap markets.

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<sup>3</sup> ESMA, Final Report on draft RTS on the clearing and derivative trading obligations in view of the benchmark transition to risk free rates (18 November 2021), available at [Link](#)

<sup>4</sup> FSA, Weekly Review No.465, in English available at [Link](#); in Japanese available at [Link](#)

<sup>5</sup> Bank of England, Derivatives clearing obligation - modifications to reflect interest rate benchmark reform: Amendments to BTS 2015/2205, available at [Link](#)

Bank of England, Derivatives clearing obligation - introduction of contracts referencing TONA: Amendment to BTS 2015/2205, available at [Link](#)

CCP12 would advocate a like-for-like replacement of each LIBOR index currently included in the Clearing Requirement, with swaps referencing the relevant identified Alternative Reference Rate. However, as acknowledged by the CFTC, bearing in mind that the new Alternative Reference Rates are generally supported by CCPs in the form of OIS or other forms of swaps rather than fixed-to-floating swaps, it is expected that the clearing obligation applied in many jurisdictions will refer to OIS or other types of swaps rather than the fixed-to-floating swap class which has been the main class of IRS subject to the Clearing Requirement so far. As a result, the replacement of each LIBOR index fixed/float swaps with corresponding Alternative Reference Rate OIS or relevant other supported swaps would ensure that (i) the Clearing Requirement is aligned with the swap contracts widely supported by CCPs and also traded by market participants and (ii) market participants have the lowest burden on their resources due to a consistent global approach to the transition away from LIBOR to Alternative Reference Rates.

**Impact on risk management of DCOs by the amendment**

CCP12 would emphasize that each DCO permitted to clear swaps under the CFTC regime is subject to the robust risk management standards under the Commodity Exchange Act and the CFTC Regulations or comparable home country regulatory regime, already supporting the RFR swaps identified as a replacement of each relevant LIBOR swap. The robustness of CCP risk management practices would not be negatively impacted by the CFTC's proposed amendments to the Clearing Requirement.

## About CCP12

CCP12 is the global association for CCPs, representing 41 members who operate around 60 individual central counterparties (CCPs) globally across the Americas, EMEA and the Asia-Pacific region.

CCP12 promotes effective, practical, and appropriate risk management and operational standards for CCPs to ensure the safety and efficiency of the financial markets it represents. CCP12 leads and assesses global regulatory and industry initiatives that concern CCPs to form consensus views, while also actively engaging with regulatory agencies and industry constituents through consultation responses, forum discussions and position papers.

For more information, please contact the office by e-mail at [office@ccp12.org](mailto:office@ccp12.org) or through our website by visiting [www.ccp12.org](http://www.ccp12.org).

## CCP12 Members

