ACI
THE FINANCIAL MARKETS ASSOCIATION

ACI BRIEFING

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ACI to Develop FX Spot Handbook

ACI – The Financial Markets Association is developing a handbook to define spot foreign exchange across currencies and geographies in an effort to remove some of the complexity from electronic trading and provide greater clarity on the definition of spot transactions.

ACI will collate data from its 13,000 members and other sources to establish a set of definitions of spot FX, including settlement arrangements and other data, for various currency pairs. It hopes the industry will agree to implement this single set of standard definitions to create a consistent approach to trading the product across the multitude of electronic trading platforms in the market.

"The handbook will have a set of principles behind the common definitions of spot for various currency pairs, what the settlement arrangements are, whether they're CLS candidates, and so on. It will be a useful thing for the market, and it might also provide an opportunity for the platforms to harmonise on a set of definitions that would hold good across the industry," says David Woolcock, Global Head of Sales and Business Development at Eurobase Banking Solutions in London, and Vice-Chair of ACI's FX Committee, which is undertaking the project.

The project is an extension of the work carried out over the past year by ACI Russia to agree a standard spot date for offshore and onshore ruble, adds Stéphane Malrait, Global Head of Fixed Income and Currencies e-commerce at Société Générale Corporate and Investment Banking and Chair of the ACI FX Committee. After agreeing a convention of T+1, and working with the local regulators and associations to validate that, the Association then approached the major trading platforms to incorporate the standard into their trading protocols.

"It worked very well and we had a good response back from the platforms, and from the buy and sell side, so we thought we should try to do that on a much larger scale for a lot more emerging market currencies where we have similar issues," says Malrait.

The standards could aid co-operation between market participants and regulators struggling to determine whether certain FX products qualify as spot and are therefore exempt from various requirements under the US Dodd-Frank Act, Malrait adds. They will also be useful for those working to meet trade reporting requirements under the European Market Infrastructure Regulation, which holds both parties to a trade accountable for reporting, raising issues about how they will ensure the identifiers they use will match.

"If the bank thinks a trade is T+1 and the client thinks it is T+2, they are both going to report a different value date and those trades will never match. We need to ensure everyone is reporting using the same standard," he says.

ACI aims to provide information on the full range of African currencies, and will be focusing heavily on Asian currencies as well. It will also be getting a complete update on how all non-deliverable forwards are traded.

Work on the spot FX handbook will begin on June 20, and the results are expected to be published by the end of the year.

The Necessity of Change

By Eddie Tan
Chairman, ACI Management Board

Change is the operative word, because change is the only thing we can be sure of. If you do not change or adapt to the changes around you, you will become irrelevant very quickly.

Technological changes coupled with an ever changing regulatory environment means our members need to constantly upgrade and adapt themselves to meet these challenges head-on. ACI as an institution must also change the way it operates, the way we influence and the way we interact with the many players in the financial markets space.

The Council Meeting in Singapore on the 14th March 2013 will become a landmark in ACI's effort to steer itself into the waters of change. We are a very traditional Association with more than 50 years of history and experience. Change will not come easy, so it is with cautious hearts and speedy footsteps that the Association has taken a leap of faith and changed its statutes, the structure of its governance and the nature of its staffing.

In Singapore, the Council boldly embraced the changes in the statutes bringing some fundamental alterations to the way the Association will be managed in the future.

There will now be a Management Board made up of the Regional Presidents, the Treasurer and a soon-to-be appointed full time President. Within the Regional

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ACI Head Office: 8 rue du Mail, F-75002 Paris, Tel: +33 1 42975115 / Fax: +33 1 42975116

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Presidents, one will be chosen to be Chairman of the Board. This Management Board will be accountable to the Council which will continue to hold the power and drive the Association's strategic intent and direction.

The Chairman of the Board will work with the Board and the full time President to execute the plan endorsed by Council. The Chairman will also delegate the authority and the day-to-day running of ACI to the President, who will be the face of the organisation and the Chief Executive of ACI.

This newly created staff position of President brings with it a number of advantages. He or she can be fully devoted to the strategic intent of the Association, representing it in forums and interacting with third parties. He or she will also be seen as independent, given that the individual does not work for any bank or profit-making organisation. The role also enhances the professional image of the Association and allows it to represent the entire membership effectively.

The Selection Committee made up of the Regional Presidents and the internal auditors, is chaired by me in my position as the Chairman of the Board. The Committee has been busy reviewing applications, conducting interviews and deliberating on the final successful candidate to be put to Council to be endorsed.

The process has not been an easy one given the nature of how ACI operates. Differences in understanding over how the selection process works has triggered many queries from members of the Council and there was pressure brought to bear on the Selection Committee to revisit and change the selection process. I am glad to report that, at the end, the Committee chose to follow the mandate given to them and picked the one candidate it feels will be able to perform the role of the President.

I will be the first to acknowledge that the selection process is not perfect and the final candidate will not be perfect. One has to understand the dynamics and complexity of an organisation such as ACI. We will have our differences, our various points of view and our personal preferences, however, I am still confident that Council members will put all that aside to give the process a chance and give the final candidate the support to steer ACI forward in the coming years.

The Selection Committee appeals to the Council members to give the candidate the due consideration. Failure to do so will only stall ACI's effort to drive necessary change going forward.

Yours Faithfully
Eddie Tan
Chairman
ACI Management Board

ACI Reaffirms Danger of FTT

ACI – The Financial Markets Association has reaffirmed the danger of the European Commission's plan for a Financial Transaction Tax (FTT).

ACI notes that European Member States are concerned by the fact that such a tax would alter the level playing field between countries, unless it is applied globally, and therefore increase fiscal arbitrage opportunities between countries rather than assist the move towards European harmonisation.

"To be clear," ACI Europe states, "This will transfer business to FTT-free countries and will create strong illiquidity in countries where the tax is implemented, even putting refinancing at risk.

"Furthermore, the tax would also be transferred to end-users as it would oblige market-makers to increase their bid-offer spreads in order to pay for the tax percentage," ACI Europe continues. "This would mainly target corporate, pension funds and other hedging clients who do not enter into such transactions for speculative purposes, rather they trade for hedging purposes."

ACI Europe further observes that for most of the financial products targeted by the regulation, the tax levels are greater than the bid/offer spreads typically quoted by market makers. "This is a clear signal that this will kill the market in the countries where the tax is implemented, as the tax would be greater than the margin gained by market participants," the Association says. "ACI Europe insists that other alternatives have to be found, that maintain the level playing field between countries, and that do not hit the end-user of financial products."

News from the Associations

ACI Russia Holds Congress

ACI Russia recently hosted its 9th ACI Russia Congress – the event attracted over 150 people.

At the meeting, it was announced that the Council of ACI Russia has changed its structure with the appointment of Kirill Grishanov and Aleksey Kapustin to the body, they replace Aleksander Sukhachev, Aleksey Zaytsev, Aleksey Krivchyn and Konstantin Zyryanov, who have stepped down.

Also during the Congress, ACI Russia announced the formation of a new legal entity, NP ACI Russia, which will help to further the Association's governmental registration.

Andreas Emser, Director of ACI's Board of Education gave an excellent speech "Education matters" and announced plans to start providing exams in the Russian language later this year. In addition, two panel discussions took place. One studied derivatives regulation in Russia and the world with emphasis on the outlook and possibility of infrastructure change related to that regulation. A further panel also looked at current developments in global and local FX markets, specifically new products, electronic technology and algorithmic trading.

ACI Germany to host ACI World Congress 2014

The 53rd ACI World Congress will take place from Thursday 27th March to Sunday 30th March in the Maritim Hotel Berlin. 25 years after the fall of the Berlin Wall and Germany's reunification, the German Capital with its history, art and cultural offerings will be a fitting platform for ACI Germany to host the ACI World Congress 2014. The location is in the inner city and close to all the public and political institutions of Germany's Capital.

ACI Germany is proud to have the pleasure of inviting ACI members and their guests from all over the world to attend the Congress and engage in a comprehensive programme covering the most recent questions and trends across the financial markets business. The programme will cover all crucial issues facing our industry today from regulation and taxation to European and global financial tensions and resulting market opportunities.

The participants will meet members of the trading community and prepare for the future inspired by the guest speakers. In addition, there will be enough time left for discussions and networking among business partners from around the world during the social events, and for a visit of Germany's booming and exciting Capital. The 53rd ACI World Congress 2014 in Berlin will be a product of a merger of the ACI Germany Congress with the ACI World Congress. In addition to the cost saving aspect and the gain in efficiency this will allow an extensive exhibition area. The participants will have the opportunity to see some of the latest products and innovations available in the market and the exhibitorscan expect a highly frequented and busy exhibition area.

Visit Berlin – ACI Germany is looking forward to welcoming you!

http://www.aciberlin2014.de

ACI to Offer Exam on The Model Code

On 1 August 2013 ACI launches a new exam on its code of conduct, the ACI Model Code. So far candidates have been asked questions about the Model Code only in the ACI Dealing Certificate and since 1 June 2013 also in the ACI Operations Certificate about the Best Practices Operations.

Following the various financial crises, the demand for education and specifically for certification amongst market practitioners has increased dramatically. Not only juniors need qualification but also senior market practitioners are now looking for some official recognition of their expertise and market experience. Apart from a deep understanding of the products, proper market practice and compliance have become a major issue for banks and their regulators.

"The ACI Model Code Certification is open to both young and senior traders and responds to the specific need to restablish and reiterate the ethics, moral rules and correct behaviour that will ensure a professional approach to business conduct," says Claudia Segre, Chair of ACI's Board of Education. "Our industry is facing uncertain and volatile markets on one side and a raft of new Directives on Global Markets from the world's regulators. ACI's Model Code give us the opportunity to promote the highest standard of professionalism, ethical norms, and values as a sign of distinction for ACI members."

The ACI Model Code describes market best practices and conventions for global financial markets. It is recognised by many central banks and financial institutions around the globe as market standard. The Model Code examination aims at promoting the ACI best practices

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and conventions amongst market practitioners. It is based on the revamped Model Code published in January 2013 and also includes the new FX Best Practices Operations. The examination lasts 1 hour and consists of 40 multiple-choice questions. The overall pass level is 60% (24 correct answers). The examination fee is 250 EUR, all taxes included. The new MOC exam syllabus is available at www.aciforex.com.

The exam is designed for :
- Market practitioners in FXMM
- Risk and Compliance Officers
- Senior practitioners who wish to sit the ACI Diploma
- ACI Operations Certificate holders who wish to sit the ACI Diploma

For senior practitioners and ACI Operations Certificate holders wishing to sit the ACI Diploma, where they are not ACI Dealing Certificate holders, the ACI Model Code examination is mandatory.

Additionally, senior practitioners must have ten years' experience in financial markets to be eligible for the ACI Diploma. Candidates need to apply for eligibility and submit a detailed CV. The ACI Board of Education decides on the eligibility and may request further documentation in order to support its decision.

Andreas Emser
ACI Director of Education

CFP Responds to Fixing Reports

In response to reports that traders have manipulated fixing rates in the foreign exchange markets, ACI's Committee for Professionalism has released a statement reiterating the best practices as laid out in *The Model Code*.

In a report in mid-June, *Bloomberg News* claimed that traders at banks were colluding and manipulating fixing rates to the detriment of clients. The traders have allegedly been front-running client orders and subsequently rigging the WM/Reuters rates by submitting trades before, and after, the 60-second trading windows – within which the benchmarks are set – according to five dealers with knowledge of the practice, says Bloomberg. It is also alleged that dealers colluded with counterparts at other institutions to, "boost chances of moving the rates."
Bloomberg's sources state that the practice has been taking place in the spot FX market on a daily basis for at least a decade, and has affected the value of funds and derivatives. Britain's markets supervisor, The Financial Conduct Authority, is reportedly considering an investigation into the potential manipulation.
The WM/Reuters rates were introduced in 1994 and are collated and distributed by World Markets, a subsidiary of State Street. The rates provide standardised benchmarks to allow fund managers to value and assess holdings and performance.
In statement, ACI's CFP reminds its members and all OTC market participants of the firm guidelines that these traders have allegedly breached, found in *The Model Code*.
A chapter in the updated Code specifically and extensively covers dealers'

David Woolcock

responsibilities with regard to rate manipulation, "Written procedures should clearly stipulate the institution's control policy in relation to 'front running' or 'parallel running'; where traders knowingly execute trades in front of a customer order. These trades would not have been executed without that prior information obtained; hence this is a form of insider trading and should be banned accordingly.
"Dealers and sales staff should not, with intent or through negligence, profit or seek to profit from confidential information, nor assist anyone with such information to make a profit for their firm or clients. Hence, employees have a duty to familiarise themselves with the requirements of the relevant legislation and regulations governing insider dealing and market abuse in their jurisdiction.
"Dealers should refrain from trading against confidential information, and they should never reveal such information outside their firms, even after they have changed employment. In those jurisdictions where insider trading and market abuse are not covered by legislation or regulations, management should take reasonable steps to protect the confidentiality and integrity of proprietary and materially price-sensitive information, and provide clear guidelines to staff on how to handle such information.
"In the event of a breach of controls, management should act promptly to investigate the breach and should take appropriate steps to rectify the weaknesses that allowed the breach to occur. Appropriate sanctions should be available to, and used by, management against staff who do not comply with policy".
David Woolcock, Chair of ACI's CFP, says, "It is important that we know the facts behind this story because as written it appears not to be an issue of collusion or manipulation *per se*, rather it is an accusation of front running. This means the allegations are of a breach of existing best practice as cited in The Model Code, rather than an extension of recent events in other fixing mechanisms.
"A transparent and global code of conduct is vital for the financial industry to convince politicians and public the world over that it is capable of regulating itself. I believe *The Model Code* fulfils that requirement. It is significant that the actions alleged in this report are all covered in The Model Code, this suggests that we – as an industry – can do more on the education and training side to promote a more robust approach to compliance with best practices.
"A large regional bank recently told me that while the bank has internal guidelines and compulsory e-learning courses, ACI's educational programmes and *Model Code* ensures all staff are familiar with the issues such as those reported," he adds. "I think this is a validation of ACI's efforts, but we cannot afford to relax."

Singapore Reports

ACI Singapore hosted the 52nd World Congress of ACI – The Financial Markets Association and provided three days of thought provoking discussion and plenty of opportunity to debate viewpoints during networking sessions.

Tharman Shanmugaratnam

Manfred Wiebogen at ACI's General Assembly

The Congress was held at the Marina Bay Sands Convention Centre, which provided a spectacular backdrop to a splendid business programme that dealt with some of the crucial issues facing today's financial markets. On the sidelines of the Congress a historic decision was taken by ACI's Council to seek the Association's first full time President (see related story, this issue).
The Congress commenced with the Opening Ceremony, at which Ong Chong Tee, Deputy Managing Director at the Monetary Authority of Singapore, formally declared the event open during a networking session held in the convention centre.
The business sessions formally kicked off the following day with a Keynote Address by Tharman Shanmugaratnam, Deputy Prime Minister of Singapore and Minister for Finance, who pointed out that the last time Singapore hosted a World Congress it was 2001 and "the world was in a very different place." He further noted that Asian markets were then struggling to recover from the Asian crisis and its capital markets were, by and large, still in their infancy.
The current landscape was one dominated by de-leveraging, which still has some way to go, even though it is being moderated by central banks. Shanmugaratnam then observed that, "We are also seeing important shifts in the structure of global finance, besides the gradual contraction in global liquidity. It is too early to say where we will be five years from now, but some of the broad brush-strokes in this new landscape of global finance are already with us and likely to stay.
"The return on equity in global banking has fallen, and will not return to pre-crisis levels, given stricter capital and liquidity rules," he continued. "Deposits have become more important as a source of bank funding and banks in certain major jurisdictions have retreated from global markets, and worryingly, may stay in retreat for some time."
He was more optimistic on securitised debt markets, saying that they "should recover" albeit with less leverage underpinning them and, "hopefully greater risk transparency".
"In the derivative markets, there will be greater standardisation of products, and much greater reliance on common market infrastructure – for trading, clearing and reporting of trades," he continued. "High volume, low-margin platforms will likely gain in competitiveness.
"Wealth management will remain a growth industry, especially in Asia, where the pool of wealth is growing most rapidly and the need for diversification remains great," he added. "And outside of intermediated finance, companies will seek new ways of raising funds, including through private placements."
As to whether these shifts will create safer financial markets, Shanmugaratnam said it depended upon "a sensible balance in regulation" which included "not overdoing" bank regulation and "not underdoing" shadow banking oversight.
Capital flows have shifted towards Asia in recent years, he observed, and this meant there was a "critical need" to add depth and breadth to Asian financial markets if they were to be able to absorb this extra capital income. Local markets have grown in the last decade, but they remain small relative to Asia's GDO, he added.
Under the banner of the key themes for the development of Asian financial markets Shanmugaratnam first discussed the OTC derivatives reform process in a global context. He highlighted how much of the regulatory reform process was intended to provide greater transparency in markets and allow risks to be better managed, however he also noted the "proliferation" of central counterparties and trade repositories in Asia and suggested that while this offers choice, it may also increase risks and lead to higher costs.
Asian regulators will have to work closer together he noted, because, "Regulators will need a comprehensive view of risks in the cross-border, interconnected market. Having multiple CCPs and trade repositories in the region may risk fragmentation, and may hamper monitoring of systemic risks as regulators may see only their own segments of the market. Market participants will also face additional costs if CCPs and trade repositories lack economies of scale."
Shanmugaratnam also hinted at Asia's willingness to go it alone on regulatory reform. He said, "As Asia's infrastructure is still at an early stage of development, we have an opportunity to

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harmonise practices while making the changes needed to respond to emerging global regulatory reforms. It is heartening to note that Asian regulators are working closely on OTC derivatives regulations. A good example was the joint letter from Singapore, Hong Kong and Australia to the US CFTC, expressing our concerns on the extra-territorial application of the US rules."

Technology was seen as another key factor in developing Asian markets, as it could help develop liquidity as well as assist risk management efficiency, having noted that though, the region still has some way to go. "In Asia, there is room for our financial markets to embrace greater electronification of trading, notwithstanding our smaller markets," Shanmugaratnam said. "To illustrate, an estimated 80% of trades are executed in electronic platforms in developed country FX markets, whereas 85% of FX trades in Asia are still executed by voice. A reduction in transaction costs can promote greater liquidity for Asian asset classes, and broaden participation from investors including retail traders."

The third key theme was the internationalisation of the Chinese renminbi. Shanmugaratnam noted that currently the RMB was used for just 0.6% of global payments, much less than China's 10% share of global trade and investment flows. "In the long run, if we envisage China with deep and liquid capital markets, and a largely liberalised capital account, the RMB market will potentially play a transformational role in Asian finance. For now, even with limited convertibility, there is considerable potential for greater use of the RMB," he said, adding, "As we see greater acceptance and use of the RMB as a trade settlement currency, there will also be important implications for the interactions between China and Asia's financial markets, and indeed for global financial markets. For one, it will be critical to facilitate the development of a single fungible offshore RMB market, as the market grows in multiple jurisdictions.

"Currently, the industry has designated different currency codes, such as the CNH and CNT, to reflect these existing market frictions. Regulators and market participants will have to work together to avoid fragmenting liquidity across markets, and to promote efficiency in the offshore RMB market. In addition, China plans to launch its international payment system, known as CIPS, in 2014. The development of a single centralised cross-border RMB payments infrastructure also augurs well for market efficiency and standardised practices for RMB payments across the region."

Shanmugaratnam closed by making the argument for Singapore as an offshore RMB centre, pointing to the island state's well-developed markets infrastructure and its ability to help China in its internationalisation process.

ACI's General Assembly

Panel One Gets Down to Business

The World's Bankers Discuss Recent Events...

...Followed Closely by Global Regulators

Panel Discussions

Following the thought-provoking and very well-received address from Shanmugaratnam, delegates settled down for the panel sessions and were treated to a highly entertaining discussion first up as Philipp Hildebrand, Vice Chairman of Blackrock and former President of the Swiss National Bank; Jim O'Neill, Chairman of Goldman Sachs Asset Management; and Eisuke Sakakibara, Professor of Aoyama-Gakuin University and former Vice Minister for Finance for International Affairs in Japan, joined panel Chair Ng Kok Song, Adviser and Chair of Global Investments at Government of Singapore Investment Corporation to discuss global markets.

Kok Sung opened by noting that as well as "Mr Yen" (Sakakibara)

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China's Role in the Regional Economy

Hedge Fund Managers Discuss Asia-Specific Issues

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he also had "Mr Swiss" and "Mr BRIC" on the panel with him, he also highlighted some of the moves in currencies since 1960 before bringing the conversation around to the dollar.

The panelists agreed that the US economy was recovering well and likely to underpin the dollar, and there was room for some light hearted moments, especially when Sakakibara informed the audience that he used to call Kok Sung before intervening in the yen and suggested that they "do some more trading today"!

Panel Two looked at the Future of Banking and was moderated by David Clark, Honorary President of ACI. John Cryan, President of Europe, Temasek Holdings; Piyush Gupta, CEO of DBS Group; Antonio Horta-Osorio, Group Chief Executive of Lloyds Banking Group; and Robert Morrice, CEO of Barclays Asia Pacific, engaged in a fascinating discussion about the changing nature of the banking industry.

It was noted that 10 years ago a panel such as this would have been celebrating banks, however times had changed with the Global Financial Crisis and the industry was now on the defensive. The panel discussed the reasons behind the crisis and it was agreed there was too much leverage, too many gaps in liquidity and too little capital in the industry in the years before the collapse of Bear Stearns and then Lehman Brothers.

The panel also agreed that there was a danger that the regulators were taking a "blunt instrument" to the banking industry in their efforts to rebuild trust, and that a more nuanced, balanced approach would work better. Either way, panelists noted, some regulatory clarity would be welcomed.

Panel Three brought the regulators in front of the audience as Lee Chuan Teck, Assistant Managing Director, Capital Markets at the Monetary Authority of Singapore moderated a session which saw regulators from around the world report on the latest conditions and plans in their country.

Belinda Gibson, Deputy Chair of Australia Securities and Investment Commission; Daryl Ho, Head of Market Development Division at the Hong Kong Monetary Authority; and Masamichi Kono, Vice Commissioner for International Affairs at Japan's Financial Services Agency and Chair of the IOSCO Board, gave updates on th eregualtory situation in their jurisdictions before joining Stewart MacBeth, CEO of DTCC Deriv/SERV and Stephen O'Connor, Chair of ISDA for a broader discussion on the global regulatory landscape.

In general, the panel believed financial markets were prepared for most of the global regulatory plans being imposed, however there were still concerns about regional imbalances, specifically that the US was moving at a quicker pace than most other regions. All panelists agreed that a global, unifed, approach to regulation was desirable and that there was a need for an international standard to provide clarity for markets and reduce the chances of regulatory arbitrage.

The second day of business sessions closed with an off the record but fascinating discussion by four hedge fund managers about the challenges and opportunities facing their firms in the Asia region. Before that, the hot topic of China and its impact on Asian financial markets was discussed. Anthony Leung, Chair of Greater China for the Blackstone Group and former Financial Secretary of Hong kong, kicked proceedings off with a keynote address that laid out the progress of China to its current status, specifically the growing importance of education and how it is helping to drive modernisation and growth.

Leung highlighted the growing disparity between rural and urban demographics, as well as environment issues and corruption as challenges facing modern China and argued that the country needed to change its business model from a State-led, export driven model to one driven by domestic consumption and the private sector. He concluded that China was set for another 10 years' of rapid growth, barring a major surprise or event.

The panel then discussed the key themes of Leung's speech, questioning, among other things, whether a society can make such a transition when it gets rich before it gets old? It was also argued that the path to growth for China was not necessarily as easy as some believe because of the slow pace of institutional and political reform.

At the closing ceremony, ACI Singapore formally handed the ACI Flag over to ACI Germany and attendees at the spectacular dinner were formally invited to Berlin to join our colleagues from around the world at what will hopefully be an equally interesting World Congress.

Singapore Passes the Flag to Berlin

BIS Paper Calls for Better Reference Rate Process

Following the ongoing scandal over the manipulation of reference rates such as Libor, a Working Group from the Bank for International Settlements has produced a paper that "identifies an urgent need to strengthen the reliability and robustness of existing reference rates and a strong case for enhancing reference rate choice".

The paper says that the situation calls for "prompt action by the private and the public sector".

The Working Group also says the sharp contraction in market activity since 2007 has raised questions about the robustness and usefulness of reference interest rates based on term unsecured interbank markets, particularly in periods of stress.

"In addition, structural change in derivatives markets, such as the wider use of collateral and the move to centrally clear standardised OTC derivatives transactions, may add to the demand for reference rates that do not embody bank credit risk," it says. "As a result, there is a consensus within the Group that there is demand for a range of reference interest rates that are suitable for different purposes."

The Group stresses that it believes that a sound framework for producing reference rates is "essential for well-functioning markets".

It adds, "Both the private and public sectors therefore face an immediate need to ensure that reference rates are reliable and robust, and thus adequately governed and administered to appropriately guard against market abuse or systematic errors. Promoting a sound rate setting process based on greater use of transaction data combined with the transparent and appropriate use of expert judgment would enhance the resilience of reference rates. Steps should also be taken to ensure contracts have robust fallback arrangements for use in the event that the main reference rate is not produced.

The Group suggests that the official sector will take a more visible and proactive role in rate settings in future through the development of commonly agreed principles to strengthen governance frameworks that enhance the reliability and robustness of reference rates. "If the level of governance and administration of existing or modified reference rates are unsatisfactory, then central banks and the public sector may need to work with the private sector in the effort to create sufficiently robust and reliable reference rates and will need to stand ready to help overcome any potential barriers to their adoption," the Group states. "While the official sector has a role to play in developing commonly agreed principles and the strengthening of governance frameworks, choice among appropriately governed and administered reference rates should be left to private sector participants."

It goes on to say that there is a range of possible measures central banks could take to deal with such issues.

Collaborating with domestic and international regulatory bodies, central banks should work within currently ongoing reform processes to enhance the governance and administration of reference rates. Central banks should work cooperatively with relevant domestic regulators and authorities in developing guidance to encourage private entities to use sufficiently reliable and robust reference rates that are most suited for individual needs. They should also, where appropriate, work cooperatively with relevant authorities to help utilise existing regulatory and supervisory powers in evaluating rate submission processes at regulated institutions.

This means that market participants would have the choice between a range of reliable and robust interest rates for different uses, it adds. In particular, developing widely accepted and liquid reference rates not containing banking sector credit risk for managing exposure to interest rate risk could be beneficial.

Furthermore, the Group says that central banks have a range of options available to promote additional choices, including encouraging a rebalancing away from current mainstream reference rates which embed banking sector credit risk, and to alleviate constraints on transition. "At the moderate end of the scale, they could encourage change by promoting improvements to the transparency of markets from which reference rates are derived. In order to enhance reference rate choice, central banks can promote the development and improvement of (near) credit risk free reference rates such as overnight rates and overnight index swap (OIS) rates or general collateral (GC) repo rates.

"Public authorities could also help bring together market participants or industry groups to coalesce around any changes and help smooth any transition," the Group continues. "Central banks could, in some cases, even play a more active role by, for example, becoming directly involved in reference rate design and production, although robustness will ultimately depend on a sound rate setting process based on a liquid market. The actual form of involvement will depend on the extent of market failure and country- or currency area-specific circumstances, including market structures and regulatory and institutional arrangements. The issue of diversity is important, and action in this area by both the private and the public sector should start as soon as possible."

Singapore Acts on NDFs

The BIS paper was released shortly before Singapore's Monetary Authority announced it had completed its investigations into benchmark rate fixings in the island state and released a proposed regulatory framework to govern the process going forward. As part of the process, the MAS found that 20 banks and 133 traders were in breach of best practice and it took "supervisory actions" against institutions and individuals.

MAS says the banks were found to have "deficiencies" in the governance, risk management, internal controls, and surveillance systems for their involvement in benchmark submissions. These banks have been censured and directed to adopt measures to address their deficiencies. The authority says its actions against the banks are "calibrated according to the severity of attempts by traders in these banks to inappropriately influence financial benchmarks". This includes consideration of the number of traders within the bank who attempted to inappropriately influence benchmarks, whether traders from other banks were involved, and the number of times these attempts occurred.

MAS has also considered supervisory actions taken by other regulators for deficiencies relating to the London Interbank Offered Rate benchmark submissions, and the size of the Singapore market relative to other markets.

MAS notes that 133 is a "small proportion" of the number of traders in Singapore, and adds these traders were "found to have engaged in several attempts to inappropriately influence the

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benchmarks".

MAS acknowledges that there is no "conclusive" finding that SIBOR, SOR and FX benchmarks were successfully manipulated, but stresses the traders' conduct reflected "a lack of professional ethics". It adds that it takes "a serious view of the need to uphold high standards of integrity in the industry and expects banks to foster a culture of ethical conduct among all their employees".

Although the respective banks have taken disciplinary actions against the traders involved and about three-quarters of these traders have resigned from or have been asked to leave their banks, MAS warns that the rest of the traders who remain employed by their banks "have been, or will be, subject to disciplinary actions". These include reassignment to other jobs, demotions, and forfeiture of bonuses. The industry will put in place measures to facilitate reference checks, so that an institution would be made aware if a potential hire had been implicated in attempts to inappropriately influence benchmarks.

On an even more serious note, MAS has referred some cases to the Commercial Affairs Department and the Attorney-General's Chambers, but it notes that based on the available information and evidence, "no criminal offence under current Singapore law appears to have been committed".

As far as the revised framework is concerned, MAS says it will introduce specific criminal and civil sanctions under the Securities and Futures Act (SFA) for manipulation of any financial benchmark. This will cover all financial benchmarks including SIBOR, SOR, and FX Benchmarks.

It also intends to subject the setting of key financial benchmarks to regulatory oversight. MAS will have the powers under the SFA to designate key benchmarks based on considerations such as the systemic importance of a benchmark and an assessment of its susceptibility to manipulation. MAS proposes to designate as key benchmarks the SIBOR, SOR and FX Benchmarks currently administered by the Association of Banks in Singapore (ABS).

The administrator and submitters of key benchmarks will be required to be licensed by MAS, and will be subject to regulatory requirements and requirements for administrators of key benchmarks will include the establishing of effective arrangements for regular monitoring and surveillance of benchmark submissions;□the putting in place robust governance arrangements to identify and mitigate actual and potential conflicts of interest; and□the establishment of a committee that will be responsible for overseeing the benchmark administration process and code of conduct for submitters.

The proposal further states that the submitters of key benchmarks will include compliance with the code of conduct for submitters developed by the respective administrators and□the appointment of an external auditor to conduct an annual independent review of the submitter's benchmark submission activities and submission of this auditor's report to MAS.

Teo Swee Lian, peputy managing director at MAS, says, "Ensuring the integrity of the processes for setting financial benchmarks is vital. MAS has taken firm supervisory actions against the banks, based on a careful assessment of their respective deficiencies. The proposed new regulatory framework will minimise the risk of attempts to inappropriately influence these benchmarks. The industry must also play its part in enhancing the robustness of the financial benchmarks, and in cultivating high standards of professional integrity and ethics."

CFTC Unveils SEF Rules

On May 16, the US Commodity Futures Trading Commission voted to enact three measures that completed, according to CFTC chair Gary Gensler, "all of the major building blocks of swaps market reform: transparency, clearing and swaps dealer oversight."

The three measures established rules for block trading, made available to trade and the operation of Swap Execution Facilities (SEFs), however statements from commissioners at the public meeting to discuss the measures highlighted deep divisions that remain within CFTC over the new framework. Of the three rules, two passed by a three-to-two vote and one by four-to-one.

The most eagerly awaited segment of the meeting was that to establish the rules governing the operation and use of SEFs. Gensler had been pushing for a five quote minimum for all trades, however was forced into a compromise by fellow commissioners. The final rule was established at three quotes per trade, however a bedding in period of 15 months will see this set at two quotes. The CFTC will also conduct a study into the impact of the rules to see if they are appropriate, industry observers note this could lead to an abandonment of the move to three quotes.

Unveiling the rule at the public meeting, Gensler said, "To be a registered SEF, the trading platform will be required to provide an order book to all its market participants. This is significant, as for the first time, the broad public will be able to gain access and compete in this market with the assurance that their bids or offers will be communicated to the rest of the market. This provision alone will significantly enhance transparency and competition in the market.

"SEFs also will have the flexibility to offer trading through requests for quotes. The rule provides that such requests would have to go out to a minimum of three unaffiliated market participants before a swap that is cleared, made available to trade and less than a block could be executed. There will be an initial phase-in period with a minimum of two participants to smooth the transition.

"As long as the minimum functionality is met, as detailed in the rule, and the SEF complies with these rules and the core principles, the SEF can conduct business through any means of interstate commerce, such as the Internet, telephone or even the mail. Thus, today's rule is technology neutral," he added. "Under these transparency reforms, the trade execution requirement will be phased in for market participants, giving them time to comply."

The passing of the SEF rule was not without dissent, although at four-one a greater consensus was achieved than on the other votes.

Outgoing commissioner Jill Sommers, told the meeting, "With regard to the SEF rulemaking, although a lot of noise has been made in the press about the request-for-quote number, I have a number of other concerns with the SEF final rules. As with many of our rules, we have gone beyond Congressional intent by imposing requirements not called for by the statute –

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the order book and RFQ requirements, to name just a few. Nothing in the statute mandates these minimum trade functionalities. We made them up. This puts us out of sync with the SEC and, I suspect, with foreign regulators when they finalise their rules.

"I am glad that we have lowered the RFQ requirement from five to two initially, but, as with the block rules, the SEF final rules provide for an automatic bump up to three after one year for all contracts that must be cleared, no matter what the data shows," she continued. "We should base any decision to increase the RFQ requirements on objective data. There is no reason not to. We have taken a very narrow interpretation of what the statute allows and incorporated it into these final rules. I believe we will regret this restrictive approach because it may cause the US to lose this business to foreign jurisdictions that do not stifle illiquid contracts in this way. I also have questions about why we have refused to contemplate a framework that would allow for exempt SEFs and exempt DCOs, which are clearly included in the statute. Although both concepts are mentioned in the preamble, we fail to give any commitment to develop a process for determining this exempt status."

Fellow commissioner Scott O'Malia, added, "The Commission should have done a better job at implementing the Dodd-Frank directives to create flexible trading platforms for sophisticated traders, such as Eligible Contract Participants. Instead, the Commission has come up with a number of prescriptive rules, especially in the rule enforcement area, that are almost identical to the Designated Contract Markets rules. Also, in the spirit of promoting trading on SEFs, the Commission should have expressly permitted other methods of execution, including voice. At a minimum, the rule text should have included voice as the third method of execution.

"I am concerned with the process the Commission is using to shift the minimum number of traders on an RFQ from two to three participants. It is incredible to me that the Commission rushed to implement the data rules to ensure that it can make informed decisions, and yet has chosen to pick an unsubstantiated number without relying on any transaction data. A transparent rulemaking process would utilise available data to make fact based decisions. However, both the SEF rule and the Swap Block Rule suffer from a willful refusal to utilise available and useful data."

The compromise rule garnered support from commissioner Mark Wetjens, who told the meeting, "I believe that taken as a whole, the Commission has struck an acceptable balance in these final rules. I am certainly confident that the new execution framework recommended by the professional staff in consultation with public-interest groups, the industry, and the regulatory community over the course of the past two years or so, represents a fundamental shift away from the OTC model as it existed only a few years ago.

"The benefits of this shift are many," he continued. "For example, many swaps will for the first time trade on regulated platforms and benefit from market-wide, pre-trade transparency, which should improve pricing for the buy-side, commercial end-users, and other participants that use these markets to manage risk. Additionally, SEFs, as registered entities, will be required to establish and enforce comprehensive compliance and surveillance programs that simply do not exist in the swap markets today.

"Another potentially significant benefit not as often discussed is the improved ability for clearing houses and their members to manage risk during times of market stress, effectuated by liquidity formation on SEFs should these platforms function as envisioned by these rules," he added.

"Timing is that 60 days after publication into the Federal Register the rules take effect, with SEFs having a further 120 days to become compliant and gain approval – so SEFs will be live in December for mandatory clearing instruments," says an industry observer closely involved with the process. "Given an order book exists, the SEF can offer RFQ and voice for example. The infamous 15 second rule remains, but in a slightly different guise – the SEF defines how long an order must be exposed to the market before any internalisation can take place within an institution."

Block Trades

The CFTC meeting also agreed, albeit by three-to-two votes, rules around block sizes. For an initial one-year period, block sizes in the interest rate and credit asset classes will be set such that 50 percent of the notional amount of a particular swap category will benefit from pre-trade and post-trade transparency, Gensler told the meeting. Also during this initial period, the block sizes for foreign exchange and other commodity asset classes will be based upon the block sizes that designated contract markets have set for economically related futures contracts.

After the initial period, CFTC will determine block sizes using a methodology that relies on the data collected by swap data repositories. "Block sizes will be set such that 67 percent of the notional amount of a particular swap category will benefit from pre-trade transparency and enhanced post-trade transparency," said Gensler, who added the rule also includes measures to protect the identities, market positions and business transactions of swap counterparties when their swap transactions and pricing are reported to the public.

At the meeting, referring specifically to the block rule, O'Malia said, "My frustration with the swap block final rule lies in the process. The goals of promoting pre-trade price transparency and trading on a SEF require the Commission to encourage on-screen trading, while the block rule should be reserved for those trades that are sufficiently large to be disruptive in the market.

"Today's Block Rule suffers from a similar shortcoming as the SEF rule," he continued. "The foundation of any block size, whether it is a swap or future, is good data. Again, the Commission developed a rule with meagre data in financial products and no swaps data in the case of foreign exchange and commodities. Making matters worse, the rule does not require consideration of transaction data to increase the blocks for any swap category, but instead simply imposes the arbitrary and automatic increase.

"Again, I believe the Commission should utilise the facts and data and make an informed decision about the appropriate block levels. Therefore, I am prepared to offer an amendment to this rule to require the Commission to set block levels based on a study using trade data."

Made Available to Trade

The third major rule voted on surrounded the "made available for trade" or MAT rule. Addressing the public meeting, Gensler explained, "The MAT rule establishes a flexible process for a SEF or DCM to make a swap available to trade. The SEFs and DCMs first will determine which swaps they wish to make available to be traded on their platforms. Then these determinations will be submitted to the Commission either as self-certified by the trading platform or for approval under the Commission's Part 40 rules.

"The phase-in rule would provide market participants with 30 days after the SEF's or DCM's self-certification or submission is deemed approved prior to such swaps being subject to the trade execution mandate. Those swaps that are made available to

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trade and thus subject to the trade execution requirement will be publicly posted on the Commission's website."

Inevitably, given another three-to-two vote by the Commission, this rule also attracted dissenting voices. Commissioner Sommers told the meeting, "My objections to the made available for trading rules remain the same. A few minor revisions have been incorporated into the final rules, but, as proposed, the final rules provide that DCMs and SEFs, rather than the Commission, will make the determination of when a swap has been made available to trade by considering a list of factors that fail to contain any objective standards.

"Although we claim we will review certifications or requests for approval to determine whether a swap is "suitable" for the mandatory execution requirements, in fact, our hands are tied," she argued.

"Unless a MAT determination is inconsistent with the Act or our regulations, we must approve it, or deem it approved. But, because neither the Act nor the final rules contain any objective requirements that a swap must meet for a MAT determination to be valid, it is difficult to envision how we could ever find such a determination to be inconsistent with the Act or regulations. This approach allows a single SEF or DCM to bind the entire marketplace to a trade execution requirement as long as the swap must be cleared, even if liquidity is lacking.

"This is overly broad, potentially inconsistent with foreign regulations, and just plain bad policy," she added. "I suppose we are crossing our fingers and hoping that SEFs and DCMs will be reasonable when they make their MAT submissions and submit only highly liquid products that are truly suitable for the mandatory execution requirements, but I would not count on it."

CFTC chair Gensler shrugged off the obvious and continued division in the Commission's ranks and told the meeting, "I want to underscore that the significance of these three rules together. When light shines on a market, the economy and public benefit. These three rules taken together will provide the public with information trade by trade that it didn't have before. These three rules taken together will provide the public with the price and volume of every transaction in real time – and I mean in real time. These three rules take together mean that anyone in the market can compete and offer to buy or a sell a swap and communicate that to the rest of the public.

"With these three rules today, no longer will this be a closed, dark market."

CFTC Issues FX Relief Letters

The May 1 deadline for reporting of trades and other rules was marked by the US Commodity Futures Trading Commission (CFTC) offering some relief to market participants seeking to avert the need to report mid-market marks and mirror trades.

The CFTC's Division of Swap Dealer and Intermediary Oversight (DSIO) issued a No-Action Letter on May 1, regarding the obligation of swap dealers and major swap participants to provide certain disclosures for certain transactions under Regulation 23.431.

The letter provides swap dealers and major swap participants with relief from certain disclosure requirements prescribed under the rule. The relief provided in the no-action letter is applicable to certain transactions in foreign exchange swaps and foreign exchange forwards. The relief provided is applicable to all swap dealers, subject to the conditions and limitations set forth in the letter.

The previous day, April 29, the CFTC issued a time limited No-Action letter exempting prime brokers from certain aspects of Dodd-Frank.

"The relief issued by this letter does not relieve any person from an obligation to report a swap or information concerning a swap under part 43 or part 45 of the Commission's regulations," notes a CFTC spokesperson.

During a recent conference panel at Forex Network London, concerns were expressed that with approximately 30% of FX spot volume being executed via prime brokers, much of this business could disappear from the market if the prime brokers effectively had to cease trading on May 1, as they would have been unable to comply with the External Business Conduct Standards within Dodd-Frank.

There has been much concern in the industry that CFTC could classify rolling spot trades as swaps and that the prime brokerage industry in particular would have to satisfy reporting requirements under Dodd-Frank – requirements it is not ready to meet. The CFTC's No-Action letter on prime brokerage did not address the question of rolling spot.

"Based on the representations made by market participants, the Division believes that no- action relief is warranted with respect to the External Business Conduct Standards as they relate to Covered Transactions executed under prime brokerage arrangements where the prime broker and the executing dealer are each [swap dealers]," the letter states.

"Accordingly, the Division will not recommend that the Commission commence an enforcement action against a SD for failure to comply with the obligations of the SD under [relevant] Commission regulations.

"Further, with respect to the market for Exempt FX Transactions where the Division understands there is significant participation by executing dealers that are not required to be registered as SDs, the Division believes that no-action relief is warranted with respect to the External Business Conduct Standards as they relate to Exempt FX Transactions executed under prime brokerage arrangements where the prime broker is an SD, but the executing dealer is not an SD," it continues. "However, the Division believes that such relief should be limited to relief, for the SD acting as prime broker, from the obligations under Commission regulations 23.431(a)(3)(i) and 23.431(b), which require the disclosure of the mid-market mark of the Exempt FX Transaction, and that the SD provide its counterparty with a scenario analysis if requested. The Division believes that these are the only obligations of an SD acting as prime broker in a prime brokerage arrangement with an executing dealer that is not an SD that would be impossible or impracticable for such SD to perform. The Division is not persuaded that such SD should be given relief from the remainder of the External Business Conduct Standards at this time. Accordingly, the Division will not recommend that the Commission commence an enforcement action against a SD for failure to comply with the obligations of the SD under Commission regulations §§ 23.431(a)(3)(i) or 23.431(b) with respect to an Exempt FX Transaction with a counterparty executed under a prime brokerage arrangement, subject to the following conditions:

(a) The SD (as prime broker) has entered into a prime brokerage arrangement that

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meets the description above but for the fact that the executing dealer is not a SD; and (b) Prior to entering into the Exempt FX Transaction, the SD notifies the counterparty that it will not perform its obligations under Commission regulations §§ 23.431(a)(3)(i) (disclosure of the price and mid-market mark) or § 23.431(b) (scenario analysis) with respect to Exempt FX Transactions entered under the applicable arrangement in reliance on this letter."

The CFTC adds that it recognises that the conditions of the no-action relief may require SDs to complete new documentation and provide certain notices to qualify for such relief. "To allow time for such conditions to be met and to avoid market disruption in the meantime, the Division will not recommend that the Commission commence an enforcement action against a SD for failure to comply with any apportionable business conduct obligations (as defined in this letter) with respect to Covered Transactions until May 15, 2013, provided that such Covered Transactions are conducted under prime brokerage arrangements of such SD in existence on the date of this letter," it says, adding, "Such relief does not apply to Covered Transactions with any counterparty not executed under a prime brokerage arrangement in existence on the date of this letter."

Following on the heels of this letter to exempt prime brokers the CFTC issued two further letters – one aimed at FX trades under seven days' maturity, the other on the need for a pre-trade mid-market (PTMM) to be set prior to trade for certain transactions.

In response to a request from the Asset Management Group (AMG) of the Securities Industry and Financial Markets Association (SIFMA) to the Division of Swap Dealer and Intermediary Oversight of the CFTC, the Division has granted relief until September 1, 2013, relating to FX deals with a maturity of under seven local business days.

The AMG says that some swap dealers for operational reasons relating to regulatory compliance, are treating all foreign exchange transactions that settle on a greater than "T+2" basis, regardless of whether they would otherwise qualify as spot transactions, as potential foreign exchange forwards for administrative ease. This has created a "significant impediment" to normal operations at swap dealers, especially as they continue to try to get all of their clients that trade swaps or exempt FX transactions to provide all necessary information, representations and agreements to permit the swap dealers to be in full compliance with the CFTC's External Business Conduct Standards rules by last week's May 1 deadline.

"Based on the representations of AMG, the Division believes that relief is warranted with respect to the External Business Conduct Standards rules in the context of certain foreign exchange transactions that all parties involved intend to be foreign exchange spot transactions but that, solely due to current operational constraints, [swap dealers] are unable to readily recognise and treat as such," says the CFTC.

"Accordingly, prior to September 1, 2013, the Division will not recommend that the Commission commence an enforcement action against an [swap dealer or [major swap participant] for failure to comply with the External Business Conduct Standards rules with respect to a foreign exchange transaction with an eligible contract participant that has a settlement cycle of no more than seven local business days in the place of settlement."

Separately, following representations by the New York Foreign Exchange Committee, the Wholesale Markets Brokers Association and Thomson Reuters, the Division has granted time limited relief from the need to provide a pre-trade mid-market mark on certain trades.

The Division had previously granted relief from FX swap and forward, as well as vanilla FX options transactions, under one year maturity involving the top 13 currencies in the world as defined by the Bank for International Settlements' Triennial Survey of Foreign Exchange Turnover. The Division stated at the time that it would consider extending this relief if sufficient data was made available. This data was presented by the groups along with a request to extend the relief to transactions in the top 31 currencies with up to two years' maturity, for the same reasons as before – that the market was transparent and liquid enough that mid-market prices were easily ascertainable on a number of electronic trading systems.

Separately, Thomson Reuters requested relief from the requirement to provide the PTMM for certain transactions executed on anonymous electronic trading platforms. The firm noted that CFTC regulations provides that an swap dealer or major swap participant need not disclose the PTMM with respect to a swap if the swap is (1) initiated on a DCM or SEF and (2) the dealer of participant does not know the identity of the counterparty prior to execution. However, Exempt FX Transactions are not required to be executed on SEFs or DCMs and may be executed on an electronic trading platform that is not registered as a SEF or DCM. Thomson Reuters argued that a dealer or participant that executes an Exempt FX Transaction on an electronic trading platform that is not registered as a SEF or DCM will not be able to rely on CFTC rules for an exception to the PTMM disclosure requirement. This would be true even if the SD or MSP were matched anonymously to the counterparty on the electronic trading platform and if real-time, pre-trade pricing information was available to the counterparty prior to entering into the transaction.

The firm further argued that the pre-trade pricing information that is available on many electronic trading platforms not registered as a SEF or DCM is not materially different than the information that would be conveyed by disclosure of the PTMM by individual players. Additionally, it argued that requiring disclosure would impose substantial additional costs that would likely lead to a decrease in market liquidity and transparency due to decreased participation on anonymous electronic trading platforms.

Therefore, Thomson Reuters requested that the Division provide no-action relief for SDs and MSPs from the requirement to provide the PTM for certain foreign exchange swaps and forwards, executed on a non-SEF, non-DCM anonymous electronic trading platform where: (1) contracts executed on the electronic trading platform are Exempt FX Transactions, (2) only eligible contract participants participate in the non-SEF, non-DCM anonymous electronic trading platform, (3) counterparties are automatically and anonymously matched and no price negotiations occur for the transactions executed on these platforms, and (4) the non-SEF, non-DCM anonymous electronic trading platform will maintain an audit trail and, upon request, will provide to the CFTC books and records to enable the CFTC to reconstruct the trades. WMBA requested similar relief for all types of transactions subject to the CFTC's business conduct standards rules that are executed under circumstances where the swap dealer or major swap participant does not know the identity of the counterparty prior to execution.

CFTC granted relief as requested by all parties but said it would continue to monitor market data around price, spread and depth of liquidity with the aim of issuing new rules if conditions materially changed.