

SPEECHES & TESTIMONY

Statement of Commissioner Brian Quintenz in Support of Proposed Rule: Amendments for Certain Swap Execution Facility Requirements and Real-Time Reporting Requirements

January 30, 2020

I support today's proposal that seeks to resolve through rulemaking three issues currently addressed in staff no-action letters. I believe this proposal is an important first step to provide market participants with much needed regulatory certainty while also promoting swap execution facility (SEF) participation, though regulatory certainty over additional current market practices is necessary as well.

Staff initially granted these requests for relief in 2013 and 2014, as SEFs were first coming into compliance with the Commission's then-new SEF regulatory framework. With the benefit of six-plus years of implementation experience, and multiple extensions of each of these no-action letters, it is long overdue for the Commission to codify and clarify its policy on each of these important issues.

First, the proposal would amend part 37 regulations to permit the swap components of certain categories of package transactions to be executed on-SEF through flexible means of execution, rather than via the required methods of execution under Rule 37.9.[\[1\]](#) In addition, the proposal would also include an exemption from the trade execution requirement for swap transactions that are executed as a component of a new issuance bond package transaction. These amendments recognize the need to provide flexible means of execution for swaps that are negotiated and executed concurrently with other components of a larger, integrated transaction.

Second, the proposal adopts a principles-based approach regarding SEF policies to correct operational or clerical errors.[\[2\]](#) The proposal directs SEFs to adopt fair, transparent, and consistent policies and procedures that allow for the timely resolution of error trades. SEFs would be permitted to allow market participants to execute offsetting or correcting trades through any method of execution offered by the SEF. I believe these amendments will facilitate the prompt identification and correction of error trades, thereby minimizing market participants' exposure to market, credit, and operational risks.

Thirdly, the proposal recognizes the difficulties associated with performing a pre-trade execution credit check on block trades occurring away from a SEF's trading system or platforms.[\[3\]](#) Accordingly, it would permit block trades to be executed on a trading system of the SEF that is not an order book, thereby allowing FCMs to conduct pre-execution credit screenings. The proposal also continues to allow block trades to be executed away from the SEF.

This proposal should in no way preclude the Commission from considering additional SEF no-action letters and policy issues through rulemaking. For example, codifying the current no-action letter providing relief from the trade execution requirement for inter-affiliate swaps, or providing greater clarity about permissible methods of execution and minimum SEF trading functionality are prime examples. In order to truly foster and promote market liquidity, transparency, innovation, and competition in the SEF marketplace, I believe these outstanding issues should be addressed. I will support today's proposal but remain hopeful that these and other important areas can be addressed through rulemaking in the near future.

- [1] These amendments address the relief currently provided by CFTC No-Action Letter 17-55 (Oct. 31, 2017).
- [2] These amendments address the relief currently provided by CFTC No-Action Letters 17-27 (May 30, 2017) and 20-01 (Jan. 8, 2020).
- [3] These amendments address the relief currently provided by CFTC No-Action Letter 17-60 (Nov. 14, 2017).