MEMO# 31571

January 22, 2019

ICI Draft Letter on CFTC Proposal Regarding Swap Execution Facilities and the Trade Execution Requirement - Your Comments Requested by January 30

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January 22, 2019 TO: Derivatives Markets Advisory Committee RE: ICI Draft Letter on CFTC Proposal Regarding Swap Execution Facilities and the Trade Execution Requirement - Your Comments Requested by January 30

Last November, the Commodity Futures Trading Commission (CFTC or "Commission") proposed amendments to its rules governing swap execution facilities (SEFs) and the trade execution requirement for swaps.[1] Comments on the proposal are due to the CFTC on February 13th, 2019.

ICI has prepared the attached draft letter to the CFTC in response to the proposal. Please provide your written comments on the draft letter by Wednesday, January 30th, to sarah.bessin@ici.org and george.gilbert@ici.org.

ICI's draft comment letter supports the main goals of the proposal, namely increasing swap market transparency, reducing complexity, and promoting the trading of more swaps on SEFs. We assert, however, that the CFTC's proposed dramatic overhaul of SEF trading practices will not accomplish these goals and risks making markets more opaque, fragmented, brittle, and complex.

The letter supports the CFTC's proposed definition of "market participant," which we believe would improve market certainty. The CFTC's proposed definition would include asset managers as "market participants," while excluding the asset manager's clients.

The letter urges the CFTC not to proceed with proposed revisions to its rules on impartial access to SEFs. We explain that the CFTC's proposed changes to the impartial access requirements would harm buy-side market participants by reducing their access to markets, impairing liquidity, and diminishing competition. We assert that the CFTC's proposal to grant SEFs more discretion when considering what fees to charge market participants is likely to result in disproportionately higher costs for buy-side market participants.

The letter recommends that the CFTC rethink its vast expansion of the trade execution requirement. We explain that significantly expanding the trade execution requirement, as the Commission proposes, would increase costs and diminish competition, liquidity, and innovation. Rather than using its regulatory authority to force swap trading onto SEFs, we urge the CFTC to impose the trade execution requirement only on a swap after the CFTC verifies that there is sufficient liquidity on SEFs that list the swap to satisfy trading demand for the product. We further recommend that the CFTC not adopt the proposed ban on pre-execution communications for block trades to maintain liquidity in this critical portion of the market.

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Attachment

endnotes

[1] For a summary of the proposal, please see ICI Memorandum No. 31498 (Nov. 27, 2018), *available at* https://www.ici.org/my_ici/memorandum/memo31498.