

MEMO# 34006

January 24, 2022

ICI Files Comment Letter with CFTC on Request for Comment on Swap Clearing Requirements and LIBOR Transition

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TO: ICI Members

Derivatives Markets Advisory Committee

LIBOR Transition Working Group SUBJECTS: Derivatives

Trading and Markets RE: ICI Files Comment Letter with CFTC on Request for Comment on Swap Clearing Requirements and LIBOR Transition

ICI has filed a comment letter with the Commodity Futures Trading Commission providing feedback on the CFTC's request for information and comment (RFI) on amending its swap clearing requirements in light of the upcoming cessation of LIBOR and other IBORs used as benchmark reference rates and the market adoption of alternative reference rates (i.e., overnight, nearly risk-free reference rates (RFRs)).[\[1\]](#) ICI's comment letter is attached, and is summarized below.

ICI supports the Commission's initiation of a dialogue on the transition from LIBOR and other IBORs to RFRs, including a review of the classes of interest rate swaps currently subject to the Commission's swap clearing requirement ("Clearing Requirement"). We appreciate the Commission's assurances that it is monitoring the market's transition to RFRs on an ongoing basis, including the effect on trading liquidity, clearing availability, and other factors with respect to the relevant swaps that are currently subject to the Clearing Requirement.

ICI supports voluntary clearing of swaps that reference certain RFRs and urges the Commission to allow the market for the relevant cleared swaps to continue to develop organically and autonomously, without prematurely being driven by a Clearing Requirement, reflecting the increasing adoption of RFRs across the financial markets. The letter explains that swaps referencing RFRs should only be subject to the Clearing Requirement once the market for such swaps is sufficiently developed, both from a liquidity and operational perspective.

In particular, the letter explains that it is premature for the Commission to extend the Clearing Requirement to new swaps referencing RFRs unless and until:

- more data is available to demonstrate significant notional volume and trading liquidity in new swaps referencing RFRs;
- market participants, including futures commission merchants (FCMs), funds, and their managers, have an opportunity to develop the operational and technological infrastructure to support clearing of new swaps referencing RFRs; and
- there is a sufficient level of voluntary clearing of new swaps referencing RFRs to support a Clearing Requirement.

If the Commission does apply the Clearing Requirement to swaps referencing RFRs, ICI requests that the Commission provide sufficient time for industry review of any proposed Clearing Requirement, as well as a sufficiently long implementation period for any Clearing Requirement the Commission adopts to avoid market disruptions.

Furthermore, the letter asserts that, to the extent the Commission issues updated Clearing Requirements for new swaps referencing RFRs, it is critical that the Commission respect the separate and distinct nature of the mandatory clearing and trade execution requirements. A "made available to trade" (MAT) determination should not automatically follow a Clearing Requirement for a new swap referencing an RFR, and the two requirements should not be conflated to the detriment of market participants.

Sarah A. Bessin
Associate General Counsel

Bridget Farrell
Assistant General Counsel

Nhan Nguyen
Assistant General Counsel, Securities Regulation

endnotes

[1] For a summary of the RFI, *please* see ICI Memorandum No. 33915 (Nov. 22, 2021), available at <https://www.ici.org/memo33915>.