

**MEMO# 35343**

June 12, 2023

# Tradeweb SEF Re-Filed MAT Determination for Certain Overnight Index Swaps

[35343]

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TO: Derivatives Markets Advisory Committee  
LIBOR Transition Working Group RE: Tradeweb SEF Re-Filed MAT Determination for Certain Overnight Index Swaps

On May 22, Tradeweb's registered swap execution facility (SEF) TW SEF LLC (TW SEF) re-filed a "made available to trade" (MAT) submission with the CFTC for certain interest rate swaps referencing specific risk-free rates (RFRs),<sup>[1]</sup> after withdrawing the MAT submission it filed on April 12.<sup>[2]</sup> The MAT Resubmission covers the same scope of overnight index swaps (OIS) included in the April MAT Filing. These OIS constitute a subset of swaps that became subject to the CFTC's clearing mandate in 2022,<sup>[3]</sup> pursuant to CFTC rule amendments<sup>[4]</sup> to its swap clearing requirement to reflect the market shift away from the London Interbank Offered Rate (LIBOR) and other Interbank Offered Rates (IBORs).

If you have comments or concerns about the MAT Resubmission please contact Nico Valderrama ([nvalderrama@ici.org](mailto:nvalderrama@ici.org)) or Nhan Nguyen ([nhan.nguyen@ici.org](mailto:nhan.nguyen@ici.org)) or as soon as possible.

While the scope of swaps for which TW SEF requests a MAT determination approval is identical to the April MAT Filing, TW SEF provides additional information in its MAT Resubmission to:

- Clarify that TW SEF is submitting its MAT determination for Commission review and approval pursuant to CFTC Rules 37.10 and 40.5;<sup>[5]</sup>
- Explain in greater detail the six enumerated factors ("MAT factors") that SEFs must consider when making a MAT determination under CFTC Rule 37.10;
- Specify that, as part of its analysis of the MAT factors for the relevant OIS, TW SEF reviewed trading on its platform as well as data reported by swap data repositories;
- Provide further analysis regarding some of the MAT factors for the relevant OIS (e.g., Factor (5) the bid/ask spread); and
- Indicate that, if the CFTC approves TW SEF's MAT determination, there would be a 30-day compliance period following the CFTC's approval.

## Timing for Approval of TW SEF's MAT Determination and Comment Period

TW SEF filed the MAT Resubmission "for Commission review and approval pursuant to CFTC Rules 37.10 and 40.5." As such, under Rule 40.5, the MAT Resubmission may be deemed approved by Thursday, July 6, 2023 (with a compliance date of Saturday, August 5) unless TW SEF is notified otherwise.<sup>[6]</sup> If the CFTC determines to extend the review period for another 45 days, on the basis that the MAT Resubmission presents novel or complex issues, the MAT Resubmission may then be deemed approved by Sunday, August 20, 2023 (with a compliance date of Tuesday, September 19).

Nhan Nguyen  
Assistant General Counsel, Securities Regulation

Nicolas Valderrama  
Counsel

### Notes

[1] TWSEF's MAT determination (May 22, 2023) ("MAT Resubmission"), available at <https://www.cftc.gov/IndustryOversight/IndustryFilings/SMATDRules/50832>.

[2] See TWSEF's MAT determination (April 12, 2023) ("April MAT Filing"), available at <https://www.cftc.gov/IndustryOversight/IndustryFilings/SMATDRules/50584>. For a summary of TWSEF's April MAT Filing, please see ICI Memorandum No. 35266, available at <https://www.ici.org/memo35266>.

[3] See Clearing Requirement Determination Under Section 2(h) of the Commodity Exchange Act for Interest Rate Swaps to Account for the Transition from LIBOR and Other IBORs to Alternative Reference Rates, 87 Fed.Reg. 52182 (Aug. 24, 2022) ("Clearing Adopting Release"), available at <https://www.govinfo.gov/content/pkg/FR-2022-08-24/pdf/2022-17736.pdf>. For a summary of the Clearing Adopting Release, please see ICI Memorandum No. 34269 (Aug. 24, 2022), available at <https://www.ici.org/memo34269>.

[4] Clearing Requirement Determination Under Section 2(h) of the Commodity Exchange Act for Interest Rate Swaps to Account for the Transition from LIBOR and Other IBORs to Alternative Reference Rates, 87 Fed. Reg. 32898 (May 31, 2022) ("Clearing Proposal"), available at <https://www.cftc.gov/sites/default/files/2022/05/2022-10490a.pdf>. For a summary of the Clearing Proposal and ICI's comment letter on the Clearing Proposal, please see ICI Memorandum No. 34145 and Letter from Sarah A. Bessin, Associate General Counsel, ICI, to Christopher Kirkpatrick, Secretary, CFTC (June 30, 2022), <https://www.ici.org/system/files/2022-06/34211a.pdf>.

[5] The April MAT Filing was unclear in that it stated that TW SEF's MAT determination was submitted for "Commission review and approval" but also indicated that it was a "self-certification." See April MAT Filing at 1, 2, and 7.

[6] Under Rule 40.5, a MAT determination may be deemed approved 45 days after receipt by the CFTC, unless the SEF or DCM is notified otherwise. Rule 40.5 does not explicitly

require any comment period. The CFTC, however, has noted that it routinely solicits public comments on rule proposals submitted pursuant to Rule 40.5.

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