February 7, 2011

Mr. David A. Stawick
Secretary
U.S. Commodity Futures Trading Commission
Three Lafayette Centre
1155 21st Street, NW
Washington, DC 20581

<u>Via agency website</u>

Re: Notice of Proposed Rulemaking, RIN number 3038–AD08, Real-Time Public Reporting of Swap Transaction Data, 17 CFR Part 43

The Coalition for Derivatives End-Users (the "Coalition") is pleased to respond to the request for comments by the U.S. Commodity Futures Trading Commission ("CFTC" or the "Commission") regarding its Notice of Proposed Rulemaking ("NPR") pertaining to Real-Time Public Reporting of Swap Transaction Data ("real-time reporting") under the Dodd-Frank Wall Street Reform and Consumer Protection Act (the "Dodd-Frank Act" or the "Act").

Introduction

The Coalition represents thousands of companies across the United States that employ derivatives to manage risks they face in connection with their day-to-day businesses. Throughout the legislative process to reform the nation's financial regulatory systems, the Coalition advocated for a strong derivatives title that reduces systemic risk, increases transparency in the over-the-counter ("OTC") derivatives market, imposes thoughtful new regulatory standards, and provides a strong, unambiguous exemption for end-users from the bill's clearing, trade execution, margin, and capital requirements. More than 270 companies and trade associations have signed letters the Coalition sent to Congress during debate on the Dodd-Frank legislation advocating for a carefully calibrated derivatives regulatory regime that would not impose undue burdens on end-users whose derivatives activities do not pose systemic risk.

The Coalition supports the Commission's aim to increase transparency by enhancing price discovery for the purpose of inducing more competitive pricing and more cost-effective hedging solutions to the end-user community. It is important to remember that enhancing price discovery is only a means to an end—more competitive pricing. In most circumstances, enhancing price discovery should result in more competitive pricing for end-users, but there are certain circumstances in which a heightened level of real-time price disclosure can work in the opposite direction. To the extent that the real-time reporting requirements result in price increases, not price reductions, they would serve to frustrate, rather than fulfill, the goals of the Dodd-Frank Act.

The Commission has proposed detailed and lengthy rules pertaining to the real-time public reporting of swap transaction data, which the Coalition believes could facilitate the dissemination of data that will be useful for price discovery, provided that certain principals and precautions are taken into consideration as outlined below.

Topic: Block Size / Large Notional Determination

Sub Topic: Categorization of Swap Instruments

In order to manage the risks attendant to their businesses, end-users need to execute large hedges efficiently and in a cost effective manner. The Coalition is concerned that the NPR's contemplated broad-based categorization of swap instruments for the purpose of determining block sizes will adversely affect liquidity and bid/ask spreads in the OTC derivatives market. The NPR states: "The Commission believes that it is appropriate to group particular swap contracts into various **broad categories** of swap instruments in determining the appropriate minimum block size."[1] Unlike the equity or bond markets, where there are finite universes of tradable instruments, the OTC derivatives market has a much wider range of traded instruments due to the customizable nature of OTC derivatives contracts. For example, a typical interest rate swap could be customized up to a dozen different ways[2] to match the underlying risks being hedged, resulting in many possible permutations. Customization is important for end-users to hedge their risk exposure properly and to achieve appropriate hedge accounting. Unlike other uniform markets, such as the bond market, small changes in economic terms can have important implications on the level of liquidity, bid/ask spreads, and block trade sizes in the OTC derivatives market. With this in mind, the Coalition cautions against a broad-based categorization of swap instruments for the purpose of determining the appropriate minimum block size.

For example, while a 5-year USD interest rate swap based on the 3-month LIBOR index is one of several "benchmark" swaps[3] and is highly liquid, a similar tenor swap based on the 1-month LIBOR index with an amortizing notional is much less liquid. While the significance of such economic differences may not be readily apparent, due to different levels of market demand, liquidity can differ significantly and block sizes must be defined accordingly.

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1 75 Fed. Reg. 76139, 76145 (Dec. 7, 2010).

2 For simple "vanilla" interest rate swaps, customization could include: notional currency; notional profile—bullet, amortizing, accreting; payment frequency; interest rate reset frequency; effective date; maturity date; stub periods; business day conventions; and day count conventions.

3 "Benchmark" swaps are standard instruments that are more frequently traded and more liquid than customized trades, and they tend to set the pricing for customized trades.

Other examples of a high degree of variance in liquidity due to small changes in economic terms include[4]:

- A 5-year USD interest rate swap versus a similar swap with the same maturity date, but an effective date one year from now.

- A 2-year USD interest rate cap with 3 percent strike versus a similar cap with a 5 percent strike.

- A 2-year USD/MXN foreign exchange option contract versus a 2-year EUR/MXN foreign exchange option contract.

Indeed, any of the economic factors listed in Appendices A1 and A2 of the NPR potentially could determine how liquid or illiquid a particular contract would be.

Besides the plethora of economic terms that impact block size, other illustrative non-economic factors include:

- Liquidity differences due to time of year when trading occurs.

- Liquidity differences due to time of day when trading occurs.

- Liquidity differences due to un-foreseen market events.

Creating broad categories of swap instruments while ignoring the impact of these factors would reduce liquidity in the OTC market significantly. Then-Senate Agriculture Committee Chairman Lincoln stated in the *Congressional Record* that liquidity in a specific contract (determined by the substantive factors discussed above) should be taken into account by regulators for purposes of block size calculations.[5]

Grouping swap instruments into overly broad categories would lead to the categorization of illiquid and less liquid customized trades as non-block trades, when, in fact, they do have the ability to move the market. In turn, this would lead to dealer counterparties pricing these

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[4] Some of the key drivers of liquidity include: product type, currency, effective date (*i.e.*, whether something is spot starting or forward starting), maturity date, underlying index being hedged, and option strike(s).

[5] ‘‘The committee expects the regulators to distinguish between different types of swaps based on the commodity involved, size of the market, term of the contract and liquidity in that contract and related contracts . . . .” 156 Cong. Rec. S5,921–22 (daily ed. July 15, 2010) (statement of Senator Blanche Lincoln).

transactions at a higher than usual spread from the "mid-price" in order to compensate dealer counterparties for a more difficult market[6] structure in which to lay off risks of larger trades.

The Coalition recommends that the Commission consider:

1. A more nuanced, robust, and granular categorization of swap instruments to account for the liquidity impact of various economic terms and non-economic factors.

2. Alternatively, a differentiated real-time reporting approach to highly-liquid benchmark instruments, such as a 5-year USD interest rate swap based on the 3-month LIBOR index, versus non-benchmark instruments, such as a 5-year USD interest rate swap based on the 1-month LIBOR index with an amortizing notional. A strict set of real-time reporting rules could apply to all "benchmark" instruments that have significant price-discovery functions, while non-benchmark instruments could fall under a different set of real-time reporting requirements. In so doing, the Commission would achieve the majority of the price-discovery benefits without the danger of damaging the market structure for the non-benchmark transactions that do not have a meaningful price discovery function.

Topic: Block Size / Large Notional Determination

Sub Topic: Distribution & Multiple Tests

Because there currently is no centralized data repository on the OTC derivatives market, it is not possible for end-users to test the proposed Distribution and Multiple Tests against the current market place and determine whether the proposed tests would be appropriate or whether they inadvertently would categorize large market-moving transactions as normal size trades.

If large market-moving trades are misclassified as normal size trades and, therefore, do not qualify for the time delay afforded to block trades, end-user counterparties could face increased hedging costs as dealer counterparties would pass the higher cost of managing their increased trading risks onto end-users. These higher costs would deter end-users from using swaps to mitigate their business risks.

To avoid these increased costs, end-users may turn to the undesirable strategy of fragmenting their large hedges into smaller hedges that would be executed over time in an attempt to protect the cost efficiency of hedging. This function traditionally is performed by experienced professional traders at dealer counterparties who have significantly greater resources at their disposal than end-users. The unintended consequence of this rulemaking, however, would be to force end-users to adopt these dealer-like strategies and to saddle end-users with more

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6 When end-users execute large hedges with a swap dealer, the swap dealers typically lay off their risks in the market over time. If the execution of such large hedges was to be made known to all market participants, pricing may be driven up (or down) by other market participants, resulting in a higher cost of laying off risks for the swap dealer.

burdensome hedge accounting as the hedges would be fragmented and executed over time at different price points.

The Coalition recommends that the Commission consider the following alternatives:

1. The Commission should wait for the availability of swap data repository ("SDR") data before promulgating block size rules and calculation algorithms. SDR data would allow the Commission to determine how different calculation approaches would affect market structure and forestall the risks of dealer counterparties passing on increased trading costs to end-users. Such SDR-driven calculation algorithms would leverage SDR data to objectively determine how easy it would be for dealer counterparties to lay off trading risks associated with larger size transactions.

2. At the very least, block size thresholds initially should be set to smaller sizes to prevent unintended damage to market structure, and potentially adjusted upwards once there are sufficient SDR data to generate better calculations of appropriate thresholds.

3. Once SDR data are available and block size rules and calculation algorithms are determined, the Commission should provide a process by which market participants can alert the Commission to potential misclassification of block size trades. An ongoing reporting mechanism would create a consistent, open, and expedient process by which to redress unforeseen issues with block size classification. Through such a process, targeted "exception" rules could be created for specific categories of transactions to allow them to follow a differentiated block size calculation scheme and to preserve market participants' ability to transact large size market-moving trades.

Topic: Time Delay

Sub Topic: Bond Market vs. OTC Derivatives Market

The Commission has borrowed lessons from the bond market and the development of the TRACE system in promulgating a 15-minute time delay for block size trades. The development of the TRACE system is milestone in increasing transparency in the bond market and serves as an important example for the OTC derivatives market.

In borrowing from the TRACE system, however, the Commission must keep in mind the fundamental difference between the bond market (with a finite set of immutable instruments) and the OTC derivatives market (with a near infinite set of mutable instruments).

The finite set of immutable bonds in the bond market makes laying off trading risks in large-size trades much easier than the laying off trading risks associated with derivatives (especially with non-benchmark instruments). It is not uncommon for dealer counterparties to take several hours (and sometimes several days for illiquid categories of trades) to lay off their risks arising from executing larger sized hedges with end-users. An across-the-board 15-minute time delay that does not account for the instrument type and market conditions is too simplistic to be effective for the derivatives market.

The Coalition recommends the following alternatives:

1. The Commission should wait for the availability of SDR data before promulgating time delays. SDR data would allow the Commission to determine what time delays are appropriate for different granular categories of swap instruments for counterparties to lay-off risks. Each category of swap and size of a transaction potentially could call for a different level of time delay. In any case, a 15-minute delay would be too short to provide any protection from increased hedging costs. SDR data such as frequency, volume, and direction of trading in granular categories of swaps could be the basis for determining how much time a dealer counterparty would need to offset the risks of executing a large hedge with an end-user without overwhelming the market's typical trading volume.

2. At the very least, however, in order to protect end-users' access to cost-efficient hedging, block trades should not be required to be reported before the end of the trading day on the date of execution in the relevant market. The SEC proposed a similar approach by suggesting a range of eight to twenty-six hours depending on the time of execution of a trade. The CFTC should consider a similar approach that would delay reporting of all required trade information until the end of the relevant trading day. It is unknown how real-time reporting will affect pricing and liquidity, and it would be preferable to implement, at least initially, a longer delay to protect end-user access to critical hedging tools. It is also difficult for the Coalition to suggest definitive time delays because our end-user companies are not dealers or market-makers. The Coalition encourages the Commission to solicit feedback from dealers and market-makers on their experience of the depth and liquidity of the different instruments in the swap markets, as well as on the time delays that would be required to offset their trading risks in order to be able to continue providing cost-efficient swaps to end-users for hedging. The Coalition's members are willing to work with the Commission, dealers, and market-makers in continuing a discussion to develop reasonable time delays.

3. The Commission also should consider creating an adjustment mechanism to handle times of market stress when liquidity tends to dry up and even "normal" size transactions become much harder to execute. An inflexible time delay rule could discourage market making and liquidity provision during times of heightened market stress. Such an adjustment mechanism potentially could include an upward adjustment to the time delay during market stress, or the temporary application of a time delay to all transactions irrespective of size.

Topic: Time Delay

Sub Topic: Maximum Time Delay

The Commission has asked whether it should establish a maximum timeframe in which reporting parties must report trades to a registered SDR.[7] The Coalition urges that the Commission should *not* establish such time frames. Although in most cases, a swap dealer or major swap participant ("MSP") would be responsible for reporting in real-time, there likely will be a number of reporting entities that do not currently possess the infrastructure or the resources to create compliant infrastructure in short order.[8] The Coalition supports the Commission's assertion that "what is 'technologically practicable' for one party to a swap may not be the same as what is 'technologically practicable' for another party to a swap."[9] Thus, the Coalition believes the Commission should *not* establish such maximum reporting time frames, except for large swap dealers and MSPs, or at a minimum, adopt longer time frames for reporting for market participants that are not large swap dealers or MSPs.

Moreover, the drafters of the Dodd-Frank Act recognized that some market participants may not possess the technological and operational wherewithal to perform real-time reporting within minutes of a trade. Therefore, they used the term "technologically practicable" throughout the bill (rather than "technologically possible"). Establishing an absolute timeframe across the marketplace irrespective of individual market participants' capabilities would ignore the leniency the Act's drafters intended to give to market participants.

Topic: Time Delay

Sub Topic: Technology Issues Pertaining to the Maximum Time Delay

As the Commission noted in the NPR, some of the OTC derivatives market's practices are still manual. The Commission commented that it "believes that reporting parties should remain current with changes in technology and regularly update their technology infrastructure to decrease the time of transmission of swap transaction and pricing data to real-time disseminators."[10] The Coalition believes it is important that the Commission understand that some market practices, such as the execution of swaps over the telephone and the manual input of those swaps into electronic recording systems, are still manual because technological and structural challenges prevent many market participants from transitioning to automated systems. These challenges include:

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[7] 75 Fed. Reg. 76139, 76146 (Dec. 7, 2010).

[8] For example, community banks, small to mid-size regional banks, or farm credit institutions that offer hedges in connection with originating or refinancing a loan.

[9] 75 Fed. Reg. 76139, 76143 (Dec. 7, 2010).

[10] 75 Fed. Reg. 76139, 76145 (Dec. 7, 2010).

- The lack of widely available low-cost IT infrastructures.

- The customizable nature of contracts requiring new data entry for each trade as opposed to the "enter-once-and-reuse nature" of the bond market.

- The need to check and double-check manual data entry due to the potential for human error.

The Coalition believes that the Commission's efforts in encouraging the establishment of SDRs and other market "utilities" would bring the cost of automation down and make automated infrastructure more widely available to the market. Therefore, the Coalition does not believe the Commission should impose a wholesale maximum time delay for reporting at this time.

Topic: Real-Time Data's Usefulness in Price Discovery
Sub Topic: Reproducible Pricing vs. Anonymity

The Coalition recognizes the Commission's challenge of balancing two opposing objectives in promulgating data fields required for real-time reporting.

1. **Price Reproducibility**: On the one hand, the usefulness of real-time data in the process of price discovery depends on the ability for market participants to reproduce the pricing of instruments using the disseminated data.

2. **Anonymity**: On the other hand, the Commission must provide a degree of anonymity such that participants cannot be identified by the data fields reported in real-time.

These two objectives are both important, yet each requires a different approach to *data completeness*. The former would argue for a complete capture of a trade's economic terms. The latter would argue for reporting only a few important economic terms.

Although the Commission has proposed a large number of data fields in Appendices A1 and A2, it is unclear at this point whether either objective will be achieved if those data fields are collected.

An awkward middle ground between the two objectives would be undesirable. If the list of data fields is extensive (such that the cost of implementation would be substantial), yet not complete enough that pricing of instruments can be reproduced easily, then end-users would bear the implementation costs without the commensurate benefit of enhanced price discovery.

Ultimately, market participants do not necessarily require price reproducibility in order to have enhanced price discovery so long as they are able to deduce the material incentives[11] that swap

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[11] Business Conduct Standards for Swap Dealers and Major Swap Participants With Counterparties, 75 Fed. Reg. 80659 (Dec. 22, 2010) (to be codified at 17 CFR Parts 23 and 155) ("The material incentives and conflicts of interest that the swap dealer or major swap

[Footnote continued on next page]

dealers or MSPs may have in connection with the particular swap. The disclosure of such material incentives would allow SDRs to capture a less onerous set of data fields, and market participants would not need expensive pricing models or market data infrastructure to deduce the material incentives for themselves.

An example will highlight the importance of maintaining anonymity for end-users. Many Coalition members raise debt in the capital markets to fund their businesses. They often seek to hedge the interest rate risk associated with such debt issuances by entering into one or more interest rate swaps with dealer counterparties. Because the bond issuance and its terms may already be in the public domain, dealers and other market participants will anticipate that the issuing end-user will enter into swap transactions in order to hedge. If these interest rate swaps were required to be reported in real-time, market participants would have enough information to identify the issuer by matching the terms of the swap required to be reported in Appendix A of the NPR with the bond issuance being hedged, notwithstanding the masking of the notional amount of the interest rate swap(s) being executed as provided for in Section 43.4(h). The identification of the end-user counterparty for these types of swaps also would make it more difficult and costly for dealer counterparties to lay off their risk from the swap which in turn, would increase hedging costs for end-users.

Section 43.4(e) provides the regulatory framework for protecting the anonymity of the parties to a swap. In the NPR, the Commission uses an example of an off-facility commodity swap with a specific delivery point as an example deserving of this protection. However, even common instruments such as interest rate swaps (regardless of whether they have been executed on or off-facility), should be eligible for similar reporting anonymity.

Topic: Real-Time Data's Usefulness in Price Discovery

Sub Topic: Advantage to Dealers and Hedge Funds

As the end-user community previously has noted, there already is a significant degree of price transparency in the OTC derivatives market for liquid transactions. End-users leverage widely available real-time pricing data of benchmark instruments (such as swap curves, basis swap curves, and option volatility surfaces) to price either standard or bespoke hedges. While the flood of new real-time data in theory could provide a greater degree of access and a larger data set with which to price instruments, in reality, the deluge of real-time data would overwhelm end-users' ability to process the data in any meaningful way.

Instead, a potential unintended consequence of this deluge of real-time data could be a greater degree of information asymmetry between end-users and their counterparties. Real-time processing of massive amounts of market data is the traditional province of sophisticated dealers, hedge funds, and high-frequency traders—not end-users. Therefore, despite the Commission's

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participant may have in connection with the particular swap, which shall include: (i) With respect to disclosure of the price of a swap, the price of the swap and the mid-market value of the swap as defined in paragraph (c)(2) of this section . . . ."

best intentions, it is difficult to fathom how end-users could meaningfully and cost-effectively leverage the new stream of data.

To compound the potential issue of information asymmetry, the lack of a consolidated real-time disseminator would mean the barrier to entry to process the data would be very high. Certainly, it is conceivable that dealers, hedge funds, and high-frequency traders would have the resources to invest in infrastructure to create their own consolidated data stream. However, end-users would have difficulty matching up with these capabilities or affording to pay heretofore non-existent data processing firms to leverage the new stream of real-time data.

Again, we emphasize that the price discovery enhancement most beneficial to end-users is the disclosure of material incentives that swap dealers or MSPs may have in connection with a particular swap.[12] This could be achieved without requiring a deluge of detailed transaction data. Furthermore, such an approach would not have the unintended consequence of tilting the playing field to the advantage of sophisticated dealers, hedge funds, and high-frequency traders that have greater data-processing capabilities than end-users.

Topic: Real-Time Data's Usefulness in Price Discovery

Sub Topic: Cleared vs. Uncleared Trades

The Coalition believes there is a difference in the price-discovery benefits of real-time reporting of cleared transactions versus uncleared transactions. Cleared transactions generally do not have a credit component in their pricing, and as a result, represent the pure trading profits being levied on transactions by dealer counterparties. In contrast, the pricing of uncleared transactions includes a mixture of trading profits and credit spreads. The price discovery benefit is difficult, if not impossible, to assess on uncleared transactions because there is no way to detangle these aggregated components without jeopardizing the counterparties' confidentiality.

Because most end-users will be engaged in non-cleared trades, the price discovery benefits of reporting these transactions in real-time is questionable. The continual operational costs and the infrastructure implementation costs that will be imposed on end-users to report trades in real-time, however, are certain.

The Coalition recommends that the Commission provide a differentiated approach to cleared versus uncleared trades. Uncleared trades (containing varying degrees of credit spreads embedded into the pricing) could be subject to a much less burdensome real-time reporting requirement, as they would not measurably enhance the price discovery process. Therefore, resources should be concentrated in implementing real-time reporting for cleared trades where there is a significant price discovery benefit.

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[12] As discussed in the CFTC's proposed rule, Business Conduct Standards for Swap Dealers and Major Swap Participants With Counterparties, 75 Fed. Reg. 80659 (Dec. 22, 2010) (to be codified at 17 CFR Parts 23 and 155).

Topic: Rounding

The Coalition supports the Commission's proposal to include the rounding of notional before public dissemination of transaction data, but asks that the Commission take a more nuanced approach to rounding. The Commission has proposed the following rounding scheme:

- Less than one million, round to the nearest 100 thousand;
- Less than 50 million, but greater than one million, round to the nearest million;
- Less than 100 million, but greater than 50 million, round to the nearest 5 million;
- Less than 250 million, but greater than 100 million, round to the nearest 10 million; and
- Greater than 250 million, use ''250+''.

The key benefit of rounding is that it will provide an appropriate level of anonymity for all transactions and a degree of protection from front-running[13] for larger transactions.

The proposed rounding scheme, however, does not take into account the particularities of specific granular categories of swaps. For example, a 10-year Chilean Peso interest rate swap with notional of $74 million would be considered quite large in today's market. Yet it would not be able to benefit from the highest-tier rounding threshold of $250 million. For certain categories of swaps that are fairly illiquid or trade in much lower notional volume, the highest-tier rounding threshold of $250 million may be appropriate. Therefore, the Coalition would suggest a more nuanced rounding scheme that caters to granular categories of swaps and that leverages SDR data to make a determination of appropriate rounding thresholds, paying particular attention to the highest-tier threshold.

Topic: Affiliate Swaps

Companies are concerned that intercompany swaps (transactions between affiliated entities under the same corporate umbrella) potentially could be subject to the real-time reporting requirements. Many companies have centralized treasury groups where expertise with hedging and hedge accounting resides. These centralized treasury groups may execute dealer counterparty-facing transactions, and enter into other, offsetting transactions with affiliates. Such a matching transaction or back-to-back transaction allows affiliated entities to hedge their commercial risks,

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[13] For example, if a transaction with a notional size of $575 million was transacted and reported in real-time (assuming this isn't a block size trade) without any rounding, then other market participants could reasonably assume that the swap dealer would soon thereafter offset the risk by trading related transactions with a combined notional of similar magnitude. However, in the presence of rounding, market participants would not be able to front-run as easily given the uncertainty as to the true size of the actual transaction (although front-running at least $250 million worth of notional is still entirely possible).

while taking advantage of the efficiency and expertise of a centralized dealer counterparty-facing treasury group. The Coalition believes the substantive benefit of real-time reporting resides entirely with the dealer counterparty-facing transaction, whereas the real-time reporting of the back-to-back transaction between affiliates has no real-time reporting value. Indeed, such reporting would distort the price discovery process and could actually mislead market participants as the pricing information would be duplicative and would double count the reality of what is taking place in the market.

Moreover, the real-time reporting of inter-company swaps would require one of the two affiliated entities (an end-user) to report the information. End-user companies generally lack the infrastructure, operational process, and human resources to perform real-time reporting.

Therefore, the Coalition recommends inter-company swaps not be subject to the real-time reporting requirement.

Topic: Foreign Exchange Swaps and Forwards

The Coalition has urged the Treasury Department to exempt foreign exchange ("FX") swaps and forwards from treatment as swaps, including any clearing and margin requirements. Whether or not they are exempted, FX swaps and forwards must be reported to a SDR, or, if no SDR will accept the FX swaps and forwards, to the CFTC.[14] They should not, however, be subject to real-time reporting requirements.

Mandating that FX swaps and forwards be reported in real-time could adversely affect an already well-functioning market. FX swaps and forwards are different from other "swaps" addressed by the Dodd-Frank Act and should not be regulated as if they were the same. As Treasury Secretary Geithner said about regulating FX swaps and forwards during a Senate Agriculture Committee hearing, "we've got a basic obligation to do no harm, to make sure, as we reform, we don't make things worse . . . because of the protections that already exist in these foreign exchange markets and because they are different from derivatives, have different risks, require different solutions, we'll have to take a slightly different approach."[15]

The vast majority of FX swaps and forwards (90 percent of interdealer trades[16]) are settled through the CLS Bank, which effectively eliminates the primary risk posed by the FX market—

[14] Dodd-Frank Act Sec. 721(a)(21) (7 U.S.C. §1a (47)(E)).

[15] *Over-the-Counter Derivatives: Hearing before the Senate Agriculture, Nutrition & Forestry Comm.*, 111th Cong. (Dec. 2, 2009) (*Congressional Quarterly* transcript) (statement of Treasury Secretary Timothy F. Geithner).

[16] Commission of the European Communities, Staff Working Paper accompanying Commission Communication, *Ensuring Efficient, Safe & Sound Derivatives Markets*, at 41 ("CLS is

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settlement risk—among CLS participants. Furthermore, requiring FX swaps and forwards to be reported in real-time actually could increase systemic risk by making it more difficult for businesses to convert cash and by deterring prudent FX hedging and risk management.

Conclusion

We thank the Commission for the opportunity to comment on these important issues. The Coalition and its members look forward to working with the Commission to help implement rules that will strengthen the derivatives market without unduly burdening business end-users and the economy at large. We are available to meet with the Commission to discuss these issues in more detail.

Sincerely,

Business Roundtable
Financial Executives International
National Association of Corporate Treasurers
National Association of Manufacturers
National Association of Real Estate Investment Trusts
The Real Estate Roundtable
U.S. Chamber of Commerce

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currently used for 55% of FX transactions (90% of the interbank market"))," available at http://ec.europa.eu/internal_market/financialmarkets/docs/derivatives/report_en.pdf.