



## asset management group

October 6, 2023

Mr. Vince McGonagle  
Division of Market Oversight  
U.S. Commodity Futures Trading Commission  
Three Lafayette Centre  
1155 21st Street, NW  
Washington, DC 20581

**Re: Request for a delay to the compliance date for new Block Thresholds and Cap Sizes**

Dear Mr. Kirkpatrick:

The Asset Management Group of the Securities Industry and Financial Markets Association (“**SIFMA AMG**” or “**AMG**”)<sup>1</sup> is writing to request that the Division of Market Oversight (“**DMO**”) of the U.S. Commodity Futures Trading Commission (“**CFTC**” or “**Commission**”) issue time-limited no-action relief that would postpone the effective date of new block thresholds, cap sizes, and reporting delays from December 4, 2023, to December 4, 2024.

As a full year of swap data under the revised swap data reporting rules will be available from December 2023, we commit to work with the Commission to efficiently evaluate the data in an effort to right-size the block and cap sizes to best balance transparency and liquidity given the Commission’s aim to make block trades transparent to the market within 15 minutes of trading. We believe this analysis could be completed within six months of the data’s availability and recommend the market have another six months to arrange compliance ahead of the postponed go-live date of December 4, 2024.

### **A. Background.**

When the Current SEF Rules were finalized in 2013, the Commission sought to implement a two-period, phased-in approach (initial and post-initial) for determining block sizes. With respect to the initial phase, the Commission adopted a 50-percent notional amount calculation (meaning the larger 50 percent of swaps (by notional amount) would not be subject to RFQ to three and immediate reporting). As for the post-initial phase, which is planned for implementation on December 4, 2023, the Commission has approved an increase the notional amount calculation from 50-percent to 67-percent. The CFTC moved to implement the 67-percent calculation, however no data was provided by the Commission to confirm that a change in the block size was justified, or, if justified, what percentage change was justified.

On April 19, 2023, the Commission published the Revised Post-Initial Appropriate Minimum Block Sizes and Post-Initial Cap Sizes for Publicly Reportable Swap Transactions on the CFTC’s website where it declared the effective date of the new thresholds and sizes to be December 4, 2023 (“**Revised Block Thresholds**”). The Revised Block Thresholds would change the reporting requirements for swap

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<sup>1</sup> SIFMA AMG brings the asset management community together to provide views on U.S. and global policy and to create industry best practices. SIFMA AMG’s members represent U.S. and global asset management firms whose combined assets under management exceed \$45 trillion. The clients of SIFMA AMG member firms include, among others, tens of millions of individual investors, registered investment companies, endowments, public and private pension funds, UCITS and private funds such as hedge funds and private equity funds.

data repositories (“SDRs”), derivatives clearing organizations (“DCOs”), swap execution facilities (“SEFs”), designated contract markets (“DCMs”), swap dealers (“SDs”), major swap participants (“MSPs”), and swap counterparties that are neither SDs nor MSPs.

In its Proposed Rule,<sup>2</sup> the Commission noted that its goals with regard to real-time reporting relate to “liquidity, transparency, and price discovery.” SIFMA AMG agrees that flexible block trading is an essential component of liquid swap markets and that correctly determining block size thresholds and dissemination delays is necessary to assure the continued viability of block trading in the swap market.

In our letter dated May 22, 2020,<sup>3</sup> we commented that it is critical to note that before proposing any changes to time delays or block sizes generally, the Commission should consider the interdependency between liquidity and transparency and time delays and block sizes. Further, any changes to time delays or block sizes should only be done after a data-driven analysis by the Commission.

## B. Discussion.

Our members firmly believe that with respect to many, if not most, product types, the magnitude of the planned increase in block size would have an adverse impact on liquidity with respect to existing block trades which would no longer benefit from RFQ to one and delayed reporting.

For example, the increase in block sizes would render trades which currently enjoy the block protections to be forced into competition using RFQ to three with immediate reporting. The requirement to show the trade to at least 3 dealers and publicly report the trade in near real-time following execution would negatively impact liquidity as swap providers would potentially be vulnerable to higher hedging costs given the pre-trade and post-trade information leakage. Absent data demonstrating otherwise, through enhancing transparency, it is possible the Commission has inadvertently sacrificed liquidity in raising block size thresholds.

We agree with Commissioner Dawn Stump’s observation in her comments of January 31, 2022<sup>4</sup>, that in adopting the original block approach (50% notional threshold), a higher threshold would follow (67% notional threshold) “**when one year of reliable swap data was available**”<sup>5</sup> to confirm the merit of such a change. We note that the then questionable reliability of the existing swap data led the Commission

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<sup>2</sup> CFTC, Real-Time Public Reporting Requirements, 85 FR 21516 (April 17, 2020) available at: <https://www.cftc.gov/sites/default/files/2020/04/2020-04405a.pdf>

<sup>3</sup> Letter to Mr. Christopher Kirkpatrick, *Proposed Amendments to the Commission’s Regulations Related to the Real-time Public Reporting Requirements* (RIN 3038-AE60) dated May, 22, 2020, from Jason Silverstein, Managing Director and Associate General Counsel, available at: <https://www.sifma.org/wp-content/uploads/2020/11/2020-05-22-Letter-from-SIFMA-AMG-re-Proposed-Amendments-to-the-Real-Time-Public-Reporting-Requirements-RIN-3038-AE60-vF1.pdf>

<sup>4</sup> Statement of Commissioner Dawn D. Stump Regarding Staff No-Action Letter on Compliance Date for 2020 Amendments to Swap Data Reporting Rules (January 25, 2022), available at [https://www.cftc.gov/PressRoom/SpeechesTestimony/stumpstatement013122#\\_ftn3](https://www.cftc.gov/PressRoom/SpeechesTestimony/stumpstatement013122#_ftn3) (“Block Increase Statement”).

<sup>5</sup> See Procedures to Establish Appropriate Minimum Block Sizes for Large Notional Off-Facility Swaps and Block Trades, 78 Fed. Reg. 32866, 32893 (May 31, 2013) (the “2013 Rule”).

to revamp the swap data reporting rules through Amendments passed on the same date the timeline for the increase in block sizes was approved.<sup>6</sup> Therefore, as noted by Commissioner Stump in her comments of September 17, 2020, no meaningful analysis of the merit of the increase in the block size could have been performed as the poor data quality had led the Commission to enhance the swap data reporting rules.<sup>7</sup>

When the Commission approved the timeline for the increase in block sizes, Commissioner Stump called on the Commission to “initiate a request for information with regard to the cap and block thresholds that were derived without reliable data and without public input.”<sup>8</sup> We also note that under the Commodity Exchange Act, policymakers are required to take into account whether increased “public disclosure will materially reduce market liquidity.”<sup>9</sup>

Both the 2013 Rule and the 2020 Rule discuss the importance of having “one year of reliable data” from the SDR before increasing the block sizes from 50% to 67%; and acknowledge the need for the Commission to evaluate the data before moving forward with the proposed increases. As the new data collection rules only became effective in December 2022, we firmly believe that the Commission should wait until it has “one year of reliable data” (at a minimum) before moving forward with any new thresholds; and then proceed with a thorough analysis of the updated data and soliciting market input as advocated by Commissioner Stump.

While a thorough analysis of at least one year of SDR data is clearly required by the Commission’s own rules, the need for data analysis is also underscored by the fundamental and far-reaching changes experienced by the market since the 2013 Rule and 2020 Rule were passed. Indeed, the relatively recent transition in reference rates, from LIBOR to SOFR, has been coupled with an increasing decline in market depth and serious spikes in overall market volatility. It is therefore critical that the Commission extend the timing of the planned transition to 67% first conceived in 2013 and take the appropriate amount of time to gather data, analyze it thoroughly, and consult with the market as it considers next steps.

The downside risk of the “Winner’s Curse”, recognized in the 2020 Rule, was confirmed in the Commission’s own study with respect to index credit default swaps.<sup>10</sup> Two quotes stand out:

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<sup>6</sup> See Final Rule, Swap Data Recordkeeping and Reporting Requirements, 85 Fed. Reg. 75503 (Nov. 25, 2020); Final Rule, Real-Time Public Reporting Requirements, 85 Fed. Reg. 75422 (Nov. 25, 2020) (the “2020 Rule”); and Final Rule, Certain Swap Data Repository and Data Reporting Regulations, 85 Fed. Reg. 75601 (Nov. 25, 2020).

<sup>7</sup> Statement of Commissioner Dawn D. Stump Regarding Block Size Threshold in Final Rule: Amendments to Real-Time Public Reporting Requirements (Sept. 17, 2020), available at <https://www.cftc.gov/PressRoom/SpeechesTestimony/stumpstatement091720c> (“Block Size Statement”).

<sup>8</sup> See Block Increase Statement.

<sup>9</sup> CEA Section 2(a)(13)(E)(iv), 7 U.S.C. § 2(a)(13)(E)(iv)).

<sup>10</sup> E. Onur, D. Reiffen and H. Zhu (2017). Mechanism Selection and Trade Formation on Swap Execution Facilities: Evidence from Index CDS Trades, (page 39-40), [https://www.cftc.gov/sites/default/files/idc/groups/public/@economicanalysis/documents/file/oce\\_mechanism\\_selection.pdf](https://www.cftc.gov/sites/default/files/idc/groups/public/@economicanalysis/documents/file/oce_mechanism_selection.pdf).

**“Our theoretical model of SEF trading emphasizes a fundamental trade-off when the customer exposes his order to more dealers: competition versus the winner’s curse. In our model of the RFQ mechanism, contacting more dealers increases both competition and the winner’s curse.”**

and

**“Moreover, consistent with the winner’s curse, dealers’ spreads and customer’s transaction costs in RFQs are also higher if the customer selects more dealers than expected...”**

With a delay in the effective date of the block and cap size transition, the Commission will have time to conduct a study using one full year of SDR data. We believe it will take approximately six months to evaluate the high-quality swaps data available after December 2023 to set appropriate block and cap sizes to strike the right balance between transparency and liquidity, and in so doing, mitigate the risk of inappropriately calibrated block and cap sizes imposing a “winner’s curse” on the swaps market.

In an assessment of current market data, we have identified the following examples of the impact of transitioning block sizes from the current 50% level to the planned 67% level:

- Brokers anticipate that the spread will widen by 25% to 40% for CDX IG and CDX HY with respect to trades presently above the current block threshold of 50% which will be below the future block threshold of 67%, with a higher impact on CDX HY. Furthermore, an increase in volatility is expected for trades once above the block threshold which will no longer qualify for block treatment and the 15-minute delay in public reporting. Each of these effects arises from the “winner's curse” whereby market participants can leverage knowledge of the trade before the broker is able to complete its hedge.
- While specific data for a 67% reporting threshold is not yet available, please see attached examples of block trade data of two-year, five-year, seven-year, and twenty-year Treasury futures contracts executed over a ten-day period in March 2023 (March 7th-17th) to observe the price impact after the details of a given transaction were reported to the public. The selected examples show the size of the block trade of the specific Treasury futures contract (in dollar duration or “DV01”) and the cost of the trade in basis points. It is clear that the real-time (< 15 minutes) reporting of the impacts the price of the contract after the trade information is disseminated to the market. This largely reinforces our concern around the concept of the “winner’s curse” dynamic leading to increased costs to dealers to hedge a transaction in a real-time reporting regime, which will ultimately be passed onto end-users by the dealers. An increase of a threshold to 67% would only serve to exacerbate such cost increases to the detriment of end users, including AMG members.

Given the material changes in the market, the more recent enhancements in the quality of swap data, the admonition for the study of quality data in the Commission’s rules, the recognition of the risk of the “winner’s curse” in the Commission’s previous study, and the mandate for quality data review to avoid sacrificing liquidity for transparency in the CEA, the Commission should postpone the planned roll-out of the revised block and cap sizes, solicit input from market participants, and study the enhanced quality swap data to determine the path forward.

### **C. Block Size Recommendations.**

Once at least one full year of quality swap data is available (after December 2023), we recommend that the Commission should convene an industry group to study the data to determine what, if any, changes to the current block and cap sizes should be made, potentially considering the following:

- i. Assess data points for each block category, comparing the present data to historical data available for a previous assessment period of at least a year – and we believe sourcing the data and analysis from SEFs is the best approach. Such data points could include the following:
  - Data for the top five, top 10, and top 15 swap market makers:
    - Average bid/offer width,
    - Average size quoted,
    - Cumulative size quoted,
    - Average percent of two-way markets, and
    - Average RFQ response time
  - Data for all market makers:
    - Average spread between winning quote and cover (width between winning price and next best price), and
    - Percent of no-quotes (percent of trades where a broker did not respond to an RFQ).
- ii. We further recommend that in assessing the data, and considering any change to the existing block sizes, the Commission should aim for the smallest change required to maintain block trade liquidity so as not to unreasonably sacrifice overall swap market transparency.

It is important to note that if the Commission's goal is for public reporting of block trades for all products within a 15-minute period, it is most likely that different block sizes will need to be set for different products. As there are different liquidity levels for each product, the block size will need to be set based on hedging potential within the 15-minute public reporting delay as the time needed to hedge will differ for each product.

### **D. Reporting Delay Recommendations.**

In our own informal review of several data points, we have seen that the time to effect a hedge can often exceed the 15-minute delayed public reporting period presently required by the rule – thereby raising the risk of the “winner's curse” as predatory behavior can occur before block trade hedging is complete.

In reviewing the time required to execute offsetting hedges for large transactions, it is apparent such time differs significantly based on swap currency, tenor, and size:

- For US dollar interest rate swaps, if a consistent 67-percent block size is applied across tenors, and depending on market conditions, we expect the data may demonstrate the time needed to execute the most appropriate offsetting hedge in the futures market could range from 10 minutes to 35 minutes or more, depending on the size and tenor and existing market conditions,
- For Euro interest rate swaps, if a consistent 67-percent block size is applied across tenors, and depending on market conditions, we expect the data may demonstrate the time needed to execute the most appropriate offsetting hedge in the futures market could range from 10 minutes to 85 minutes or more, again depending on the size and tenor and existing market conditions, and
- For interest rate swaps in less liquid currencies, the time needed for hedging would likely be longer.

The conclusion we draw from the data is that to strike the right balance between liquidity and transparency and avoid the “winner’s curse”, the Commission will need to either apply different block trade percentages to different product based on a uniform 15-minute period for public reporting or apply a uniform block trade percentage for all products based on different periods for delayed public reporting. Transparency and liquidity goals simply cannot be met using a one-size-fits-all approach for block size percentage and reporting delay for all products.

We are very pleased to note that two CFTC Advisory Committees, including the Market Risk Advisory Committee and the Global Markets Advisory Committee, have recently agreed to facilitate discussion and conduct analysis on the potential impacts that the new block thresholds and cap sizes would have on the US swaps market. In addition, if the perceived balance between transparency and liquidity is off, we expect the Committees to propose appropriate block thresholds, cap sizes and reporting delays for Commission action.

We welcome this approach and pledge to work closely with the Committees in their efforts. Collaboration among various types of market participants, including swap dealers, asset managers, end users, and infrastructure providers presents the best approach to formulating a workable path forward.

For the reasons stated above, we ask DMO staff to delay the effective date of new block thresholds, cap sizes, and reporting delays from December 4, 2023, to at least December 4, 2024. A delay of at least one-year delay would provide market participants additional time to obtain and analyze the data to inform the threshold, sizes, and delays to ensure the policy goals of transparency and liquidity are reasonably balanced. After the market has had time to implement the new data-driven block and cap sizes, we recommend that the Commission consider how such sizes could be reconsidered over time based on then-current market conditions and/or temporary market dislocations. To best balance transparency and liquidity over time, block and cap sizes will need to be periodically revisited.

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On behalf of SIFMA AMG, we appreciate the opportunity to respond to the Proposed Rule and your consideration of our comments and recommendations. If you have any questions or require additional information, please do not hesitate to contact us by calling William Thum at (202) 962-7381.

Sincerely,



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William C. Thum  
Managing Director and Associate General Counsel

cc: Honorable Rostin Behnam, Chair  
Honorable Kristin N. Johnson, Commissioner  
Honorable Christy Goldsmith Romero, Commissioner  
Honorable Summer K. Mersinger, Commissioner  
Honorable Caroline D. Pham, Commissioner

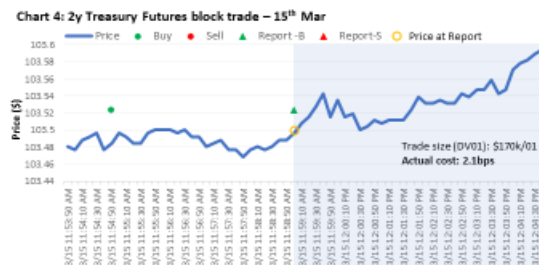
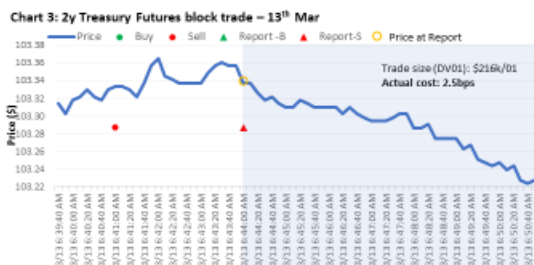
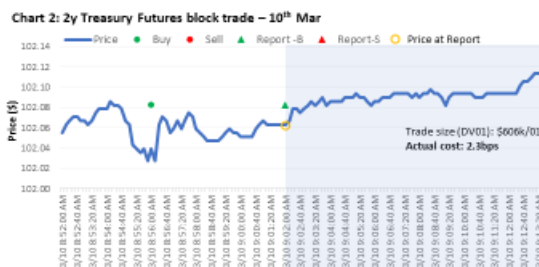
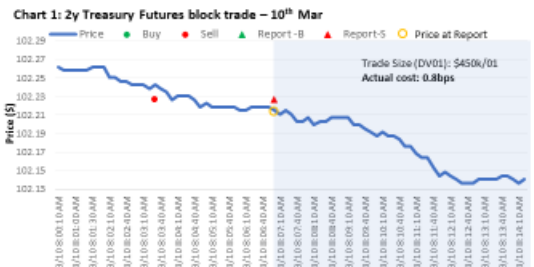
### Select Block Trade Examples

Contract	Report time	DV01	Price	Direction	Chart No.
2y Treasury Future	3/10/2023 8:07:00 AM	(450k/01)	102.23	Sell	1
2y Treasury Future	3/10/2023 9:02:00 AM	(606k/01)	102.08	Buy	2
2y Treasury Future	3/13/2023 6:44:00 AM	(216k/01)	103.28	Sell	3
2y Treasury Future	3/13/2023 11:59:00 AM	(170k/01)	103.52	Buy	4
2y Treasury Future	3/13/2023 1:29:00 PM	(244k/01)	103.69	Buy	5
5y Treasury Future	3/7/2023 12:20:00 PM	(488k/01)	106.38	Sell	6
5y Treasury Future	3/9/2023 5:41:00 AM	(970k/01)	106.33	Sell	7
5y Treasury Future	3/13/2023 5:10:00 AM	(1.96mm/01)	109.94	Buy	8
5y Treasury Future	3/14/2023 11:30:00 AM	(273k/01)	108.71	Sell	9
7y Treasury Future	3/13/2023 8:32:00 AM	(660k/01)	115.70	Sell	10
20y Treasury Future	3/8/2023 6:28:00 AM	(500k/01)	126.03	Buy	11

1. The information in the table below is derived from a sample of block trades in Treasury Futures over a randomly selected ten day period that S/PMAA AVG believes to be representative of trading in the Treasury Futures market. It is possible that similar trades from other periods could show different results. The information contained herein has been obtained or derived from sources believed to be reliable but its accuracy and completeness is not guaranteed.  
 Source: Bloomberg, CME

For illustrative purposes only

### Select Block Trade Examples



Source: Bloomberg, CME

For illustrative purposes only



Select Block Trade Examples, cont'd

Chart 5: 2y Treasury Futures block trade – 15<sup>th</sup> Mar



Chart 6: 5y Treasury Futures block trade – 7<sup>th</sup> Mar

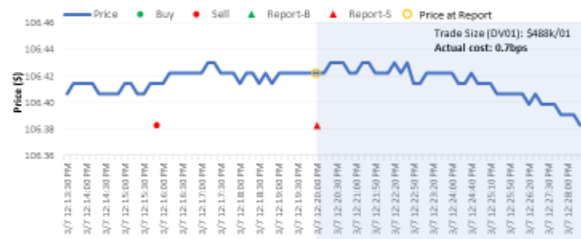
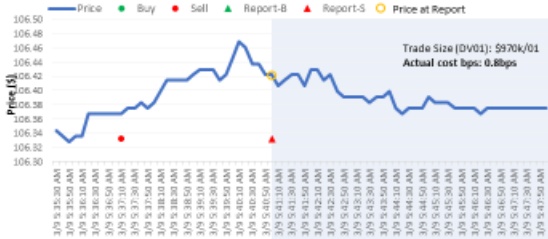


Chart 7: 5y Treasury Futures block trade – 9<sup>th</sup> Mar



Source: Bloomberg, CME

Chart 8: 5y Treasury Futures block trade – 13<sup>th</sup> Mar



For illustrative purposes only

Select Block Trade Examples, cont'd

Chart 9: 5y Treasury Futures block trade – 14<sup>th</sup> Mar



Chart 10: 7y Treasury Futures block trade – 15<sup>th</sup> Mar



Chart 11: 20y Treasury Futures block trade – 8<sup>th</sup> Mar



Source: Bloomberg, CME

For illustrative purposes only