

UNITED STATES OF AMERICA
Before the
COMMODITY FUTURES TRADING COMMISSION



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In the Matter of:)
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) **CFTC Docket No. 23-58**
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 Bank of America, N.A. and Merrill)
 Lynch International,)
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 Respondents.)
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ORDER INSTITUTING PROCEEDINGS PURSUANT TO
SECTION 6(c) AND (d) OF THE COMMODITY EXCHANGE ACT, MAKING
FINDINGS, AND IMPOSING REMEDIAL SANCTIONS

I. INTRODUCTION

The Commodity Futures Trading Commission (“Commission” or “CFTC”) has reason to believe that from at least 2015 to the present, (“Relevant Period”), Bank of America, N.A. (“BANA”) and Merrill Lynch International (“MLI”) (collectively “Respondents”), violated Sections 2(a)(13)(F)-(G) and 4s(h)(1)(B) of the Commodity Exchange Act (“Act”), 7 U.S.C. §§ 2(a)(13)(F)-(G), 6s(h)(1)(B), and Commission Regulations (“Regulations”) 23.602(a), 43.3, 45.3, 45.4, and 45.14, 17 C.F.R. §§ 23.602(a), 43.3, 45.3, 45.4, and 45.14 (2022)¹ promulgated thereunder. Therefore, the Commission deems it appropriate and in the public interest that public administrative proceedings be, and hereby are, instituted to determine whether Respondents engaged in the violations set forth herein and to determine whether any order should be issued imposing remedial sanctions.

In anticipation of the institution of an administrative proceeding, Respondents have submitted an Offer of Settlement (“Offer”), which the Commission has determined to accept. Respondents admit the facts set forth in Section II below, acknowledge that their conduct

¹The Commission amended Parts 43, 45 and 49 of the Regulations on November 25, 2020. These amendments became effective January 25, 2021, but compliance was not required until May 25, 2022. . See Swap Data Recordkeeping and Reporting Requirements, 85 Fed. Reg. 75503 (Nov. 25, 2020); Real-Time Public Reporting Requirements, 85 Fed. Reg. 75422 (Nov. 25, 2020); Certain Swap Data Repository and Data Reporting Requirements, 85 Fed. Reg. 75601 (Nov. 25, 2020). The amendments do not affect the substantive requirements at issue in this Order.

violated the Act and Regulations and consent to the entry of this Order Instituting Proceedings Pursuant to Section 6(c) and (d) of the Commodity Exchange Act, Making Findings, and Imposing Remedial Sanctions (“Order”), and acknowledge service of this Order.²

II. FINDINGS

The Commission finds the following:

A. SUMMARY

Reporting is at the heart of the Commission’s market and financial surveillance programs, which are critical to the Commission’s mission to protect market participants and promote market integrity. Accurate swap data is essential to the effective fulfillment of the regulatory functions of the Commission, including meaningful surveillance and enforcement programs. Moreover, the availability and accuracy of publicly published swap data is key to ensuring transparency into swap transactions, volumes, and pricing on a timely basis.

As provisionally registered swap dealers or registered swap dealers, Respondents are required to comply with certain reporting requirements related to their swap transactions. Since at least 2015, Respondents have failed to comply with certain swaps reporting obligations by under-reporting, over-reporting and misreporting millions of swaps to a swap data repository (“SDR”). These swap reporting failures were widespread and impacted five asset classes. Additionally, Respondents failed to establish an adequate supervisory system and diligently perform their supervisory duties with respect to their swaps reporting. Through this conduct Respondents violated Sections 2(a)(13)(F)-(G) and 4s(h)(1)(B) of the Act, 7 U.S.C. §§ 2(a)(13)(F)-(G), 6s(h)(1)(B), and Regulations 23.602(a), 43.3, 45.3, 45.4, and 45.14, 17 C.F.R. §§ 23.602(a), 43.3, 45.3, 45.4 and 45.14 (2022).

In accepting Respondents’ Offer of Settlement, the Commission recognizes Respondents’ substantial cooperation during the Division of Enforcement’s (“Division”) investigation of this matter. The Commission also acknowledges Respondents’ representations concerning their remediation in connection with this matter. The Commission’s recognition of Respondents’ substantial cooperation and remediation is further reflected in the form of a reduced civil monetary penalty.

B. RESPONDENTS

Bank of America, N.A., is a registered swap dealer with a principal place of business in Charlotte, N.C.

²Respondents agree that the findings of fact and conclusions of law in the Order shall be taken as true and correct and be given preclusive effect without further proof in this proceeding and any other proceeding brought by the Commission or to which the Commission is a party or claimant, including but not limited to, a proceeding in bankruptcy or receivership. Respondents do not consent to the use of this Offer or the Order, or the findings or conclusions in the Order, by any other party in any other proceeding.

Merrill Lynch International, is a registered swap deal with a principal place of business in London, UK.

C. FACTS

1. Swaps Reporting Violations

During the Relevant Period, Respondents did not report millions of swap transactions as required by the Act and the Regulations. Respondents' reporting failures during this period, which included failing to report, underreporting, and overreporting swap activities, along with other reporting of swap transactions in a manner inconsistent with Commission rules, violated the Act and the Regulations.

Many of the impacted swaps involved allocations. Allocations are (normally) post-trade events where an agent allocates a portion of an executed swap to clients who are the actual counterparties to the original transaction. Regulation 45.1(a), 17 C.F.R. §45.1(a) (2022), defines "allocation" as: the process by which an agent, having facilitated a single swap transaction on behalf of several clients, allocates a portion of the executed swap to the clients.

Additionally, the Regulations impose certain swap data creation responsibilities on the agent and the reporting counterparty which are to be reported to a single SDR, including Unique Transaction Identifiers ("UTI")³ for the initial swap and the identities of the reporting counterparty's actual counterparties resulting from allocation, as soon as technologically practicable after execution, but no later than eight business hours after execution. These requirements ensure that the primary economic terms reported to the SDR remain current and accurate during the life of the swap.

In October 2016, as part of a central governance program, a trade documentation team providing multi-dealer coverage for Respondents identified an ongoing reporting issue concerning pre- and post-allocation swaps in their business. In particular, Respondents failed to ever report the following three fields for certain swaps involving allocations: allocation status, reference to pre-allocation Unique Swap Identifiers ("USIs"),⁴ and trading agent Legal Entity Identifiers ("LEIs").⁵ Additionally, in some instances, Respondents failed to report pre-allocation trades.

At the time they identified this reporting issue, Respondents have represented that they had intended to address remediation as part of the broader central governance program. As of July 2017, the identified swap allocation issue had not been addressed and Respondents decided that the issue would be remediated under a separate broader initiative. The central governance program thereafter stopped tracking the issue. However, the issues remained unremedied for at

³ Regulation 45.1 defines UTI as a unique alphanumeric identifier with a maximum length of 52 characters constructed solely from the upper-case alphabetic characters A to Z or the digits 0 to 9, inclusive in both cases, generated for each swap pursuant to § 45.5.

⁴ A USI is a unique identifier assigned to all swap transactions which identifies the transaction (the swap and its counterparties) uniquely throughout its duration.

⁵ Regulation 45.1 defines LEI as a unique code assigned to swap counterparties and entities in accordance with the standards set by the Global Legal Entity Identifier System.

least an additional two years. Neither did the trade documentation team nor anyone else report the swaps reporting deficiencies to any of the Respondents' Chief Compliance Officers ("CCOs") prior to Respondents receiving a request for information and documents from the Division in November 2019.

In a December 2019 response to the Division's request, Respondents disclosed, via their counsel, these swap reporting failures to the Division and admitted that Respondents had not remediated these issues since discovering them in October 2016. In this same response, Respondents also acknowledged that the reporting failure dated back to the establishment of the CFTC requirements. The Division's investigation prompted Respondents to conduct internal reviews, which led them to uncover a multitude of other swap reporting issues, all of which were later reported to the Division.

Throughout the investigation, Division Staff and Respondents' counsel had numerous discussions in which counsel detailed Respondents' ongoing review of their swap business activity, their discovery and identification of various swap reporting errors, the impacted asset classes, the root causes of these errors, their anticipated remediation efforts and their timeline for remedying the errors. Following each of these discussions, counsel memorialized the discussions in correspondence to Division Staff. In the course of their efforts, Respondents discovered, identified, and disclosed to the Division, over a period of time, 25 different swaps reporting issues affecting five asset classes, including their foreign exchange swaps, equity swaps, interest rate swaps, credit swaps and other swaps. Thus, during the Relevant Period, Respondents failed to report or correctly report to an SDR millions of swap transactions in violation of the swap reporting requirements of the Act and Regulations. Respondents' reporting issues included, among others:

- Reporting post- allocation trades as "unallocated" instead of pre- or post-allocation;
- Not properly matching post-allocation trades with the pre-allocation trade's prior USIs;
- Some trades were misreported when the allocation status field was erroneously reported as "Unallocated" instead of "Pre-Allocation;"
- Allocated trades were reported with the UTI of the block trade instead of the USI of the block trade;
- Post-allocation trades were reported without a prior USI upon experiencing a non-financial amendment; and

Respondents did not timely report their errors or omissions to the Commission or an SDR in violation of the Act and Regulations.

2. Failure to Supervise

During the Relevant Period, Respondents did not provide adequate supervision to ensure that they complied, timely, with their swap dealer data activity and reporting obligations pursuant to the Act and Regulations. As reflected above, these failures to supervise the reporting activities of Respondents' swap dealer business resulted in failure to report, or correctly report,

millions of swap transactions in violation of swap reporting provisions of the Act and Regulations.

Moreover, Respondents knew or should have known they were not properly reporting, or failing to report, certain information regarding pre- and post-allocation swaps, including trading agent LEIs. From at least 2015 to October 2016, Respondents did not have an adequate system or program in place to detect their swap reporting failures. Moreover, after discovering their swap allocation reporting issue in October 2016, Respondents failed to remediate this issue until after November 2019 following the Division's inquiry. Respondents' supervision failures resulted in these violations persisting for years. Respondents failed to implement a program or adequate system to identify or remediate these failures.

As Respondents began to remediate their swap reporting failures, they ultimately uncovered additional swaps reporting failures. In total, all of Respondents' reporting failures impacted almost four million transactions in multiple asset classes. Respondents disclosed these failures during the Division's investigation, along with their remediation efforts, and represented that they have enhanced their trade reporting control framework and quality assurance processes to identify their reporting failures.

3. Respondents' Cooperation

Throughout the Division's investigation, Respondents have provided substantial cooperation. Respondents' cooperation included conducting a detailed analysis of historical records to assess the number of swap reporting violations during the Relevant Period. Additionally, Respondents provided oral and written communications on the nature of the issues and gave explanations of their calculations and replied to requests from the Division for clarification. Moreover, Respondents represent they have taken steps to remediate their swap reporting deficiencies described in this Order and improve their processes going forward.

III. LEGAL DISCUSSION

A. Respondents Failed to Accurately Report Swap Data in Violation of Section 2(a)(13)(F)-(G) of the Act and Regulations 43.3, 45.3, 45.4, and 45.14

The Act states that, with regard to real-time data, “[p]arties to a swap . . . shall be responsible for reporting swap transaction information to the appropriate registered entity in a timely manner as may be prescribed by the Commission.” Section 2(a)(13)(F) of the Act, 7 U.S.C. § 2(a)(13)(F). The Act also requires data for each swap (whether cleared or uncleared) to be reported to a registered SDR. Section 2(a)(13)(G) of the Act, 7 U.S.C. § 2(a)(13)(G). Pursuant to these requirements, the Commission adopted implementing swaps data reporting regulations, which apply to Respondents in their capacity as registered swap dealers. *See, e.g.*, Parts 43 and 45 of the Regulations, 17 C.F.R pts. 43 and 45 (2022).

Specifically, Regulation 43.3(a)(1) states that “[a] reporting counterparty . . . shall report . . . publicly reportable swap transaction[s] to a[n] . . . [SDR] as soon as technologically practicable after execution.”⁶ Regulation 43.3(a)(1), 17 C.F.R. § 43.3(a)(1) (2022).

Regulations 45.3(b)(1), (f)(1), (f)(2)(ii) set forth the requirements for reporting creation and continuation data, including LEIs, among other fields. Regulation 45.3(b)(1), (f)(1) and (f)(2)(ii) requires swap creation data for swaps involving allocations. 17 C.F.R. §§ 45.3(b)(1), (f)(1), and (f)(2)(ii) (2020) (Amended 2021).

Regulation 45.4(c)(1)(i) requires registered entities and swap counterparties to report continuation data for uncleared swaps, including the requirement to report life-cycle-event data. 17 C.F.R. § 45.4(c)(1)(i) (2022).

Regulation 45.14(a) states that each registered entity and swap counterparty “required by this part to report swap data to a swap data repository, to any other registered entity or swap counterparty, or to the Commission shall report any errors and omissions in the data so reported. Corrections of errors or omissions shall be reported as soon as technologically practicable after discovery of any such error or omission.” 17 C.F.R. § 45.14(a) (2020) (amended 2021).

These swap data reporting regulations “were designed to enhance transparency, promote standardization, and reduce systemic risk.” *In re ED&F Man Capital Mkts., Ltd.*, CFTC No. 22-13, 2022 WL 827785, at *5 (Mar. 15, 2022) (consent order) (quoting *In re Mizuho Capital Mkts. LLC*, CFTC No. 21-17, 2021 WL 4501467, at *9 (Sept. 27, 2021) (consent order)). “Market participants rely upon the public availability of swap data for price discovery purposes.” *In re Morgan Stanley Capital Servs. LLC*, CFTC No. 20-78, 2020 WL 5876732, at *4 (Sept. 30, 2020) (consent order) (citations omitted). “The accuracy and completeness of swap reporting are critical to the Commission’s mission to protect market participants and to ensure market integrity.” *Deutsche Bank*, 2020 WL 4611985, at *8 (citing *In re Société Générale Int’l Ltd.*, 2019 WL 4915485, at *6 (collecting cases)). *See also*, *In re NatWest Markets Plc*, CFTC No. 18-32, 2018 WL 4502270, at *2 (Sept. 14, 2018) (consent order); *In re Citibank, NA.*, CFTC No. 17-26, 2017 WL 4280594, at *2 (Sept. 25, 2017) (consent order); The Commission, in turn, requires complete and accurate reporting data to engage in meaningful oversight of the swaps market. *Id.*

During the Relevant Period, Respondents failed to report accurately swap data in millions of transactions, including failing to report the allocation status of swaps, omitting references to pre-allocation USIs, and omitting trading agent LEIs. In other instances, and among the Respondents’ multiple reporting errors, Respondents incorrectly reported pre- or post-allocations as “unallocated,” omitted USIs from position reports for a particular SDR, and assigned identical USIs to certain trades. Prior to identifying these errors through their internal reviews and disclosing them to the Division, Respondents failed to report their errors or omissions to the

⁶ The phrase “as soon as technologically practicable” means “as soon as possible, taking into consideration the prevalence, implementation, and use of technology by comparable market participants.” Regulation 43.2, 17 C.F.R. § 43.2 (2022). Moreover, in the preamble to Part 43, the Commission acknowledged that swap dealers are “more likely to have the infrastructure to report their swap transaction and pricing data to an SDR faster than other categories of market participants.” Real-Time Public Reporting of Swap Transaction Data, 77 Fed. Reg. 1182, 1191 (Jan. 9, 2012).

Commission or an SDR. Respondents' errors and omissions resulting in swap trades being underreported, overreported or not reported at all, violated Section 2(a)(13)(F)-(G) of the Act and Regulations 43.3, 45.3, 45.4, and 45.14.

B. Respondents' Failure to Diligently Supervise their Swap Dealer Business Violated Section 4s(h)(1)(B) of the Act and Regulation 23.602

Section 4s(h)(1)(B) of the Act, 7 U.S.C. §6s(h)(1)(B), requires, in relevant part, "diligent supervision of the business of the registered swap dealer . . ." Regulation 23.602(a), 17 C.F.R. § 23.602(a) (2022), implements the supervision requirements of Section 4s(h)(1) of the Act.

Regulation 23.602 requires that swap dealers "establish and maintain a system to supervise, and shall diligently supervise, all activities relating to its business performed by its partners, members, officers, employees, and agents (or persons occupying a similar status or similar function). Such system shall be reasonably designed to achieve compliance with the requirements of the Commodity Exchange Act and Commission regulations."

Under Regulation 23.602, the failure to diligently supervise the swap dealer's activities, as evidenced by repeated violations, or by violations that are not promptly corrected, is sufficient to establish a failure to supervise violation. *See, e.g., In re Commerzbank AG*, CFTC No. 19-03, 2018 WL 5921385 at *12 (Nov. 8, 2018) (consent order). The operative language of Regulation 23.602 is similar to the language of the Commission's longstanding supervision regulation for futures and options, Regulation 166.3, 17 C.F.R. § 166.3 (2021). Under Regulation 166.3, when the registrant fails to perform its supervisory duties diligently, that fact alone is sufficient to establish a violation of the supervision requirement. *See, e.g., In re Murlas Commodities, Inc.*, CFTC No. 85-29, 1995 WL 523563, at *9 (Sept. 1, 1995); *In re Paragon Futures Ass'n*, CFTC No. 88-18, 1992 WL 74261, at *14 (Apr. 1, 1992). Evidence of violations that "should be detected by a diligent system of supervision, either because of the nature of the violations or because the violations have occurred repeatedly" is probative of a failure to supervise. *Paragon Futures*, 1992 WL 74261, at *14.

As detailed above, Respondents knew in October 2016 that they were not correctly reporting certain pre- and post-allocation swaps. In July 2017, Respondents again realized that they had not remediated their reporting failures. Despite their intention to remediate the issue by separating it from their central governance program, they neither took further steps to remediate those failings, nor did they report their swap reporting failures to their respective CCOs. In November 2019, as a result of the Division's request for information, Respondents again realized that they had not remediated their swap reporting failures. For a period of more than three years, between October 2016 and November 2019, Respondents were aware of their swap reporting failures but did not take reasonable steps to ensure compliance with their reporting requirements pursuant to the Act and Regulations.

During the Relevant Period, Respondents failed to have adequate systems in place to detect their swaps reporting failures, which they only discovered after the Division's inquiry which then prompted Respondents to conduct analyses of their swap business. This ultimately resulted in the discovery of 25 swap reporting issues affecting millions of swap transactions. By failing to diligently supervise their swap dealer activities, and by failing to inform their CCOs of

their ongoing swap dealer reporting failures, Respondents violated Section 4s(h)(1)(B) of the Act and Regulation 23.602.

IV. FINDINGS OF VIOLATIONS

Based on the foregoing, the Commission finds that, during the Relevant Period, Respondents violated Sections 2(a)(13)(F)-(G) and 4s(h)(1)(B) of the Act, 7 U.S.C. §§ 2(a)(13)(F)-(G), 6s(h)(1)(B), and Regulations 23.602(a), 43.3, 45.3, 45.4, and 45.14, 17 C.F.R. §§ 23.602(a), 43.3, 45.3, 45.4, and 45.14 (2022).

V. OFFER OF SETTLEMENT

Respondents have submitted this Offer in which they:

- A. Acknowledge service of this Order;
- B. Admit the facts described in Section II above and acknowledge that their conduct violated the Act and Regulations;
- C. Admit the jurisdiction of the Commission with respect to all matters set forth in this Order and for any action or proceeding brought or authorized by the Commission based on violation of or enforcement of this Order;
- D. Waive:
 - a. The filing and service of a complaint and notice of hearing;
 - b. A hearing;
 - c. All post-hearing procedures;
 - d. Judicial review by any court;
 - e. Any and all objections to the participation by any member of the Commission's staff in the Commission's consideration of the Offer;
 - f. Any and all claims that they may possess under the Equal Access to Justice Act, 5 U.S.C. § 504 and 28 U.S.C. § 2412, (2012) and/or the rules promulgated by the Commission in conformity therewith, Part 148 of the Regulations, 17 C.F.R. pt. 148 (2018), relating to, or arising from, this proceeding;
 - g. Any and all claims that they may possess under the Small Business Regulatory Enforcement Fairness Act of 1996, ("SBREFA"), Pub. L. No. 104-121, tit. II, §§ 201–253, 110 Stat. 847, 857–74 (codified as amended in scattered sections of 5 U.S.C. and 15 U.S.C.), relating to, or arising from, this proceeding; and

- h. Any claims of Double Jeopardy based upon the institution of this proceeding or the entry in this proceeding of any order imposing a civil monetary penalty (“CMP Obligation”) or any other relief, including this Order;
- E. Stipulate that the record basis on which this Order is entered shall consist solely of the findings contained in this Order to which Respondents have consented in the Offer;
- F. Consent, solely on the basis of the Offer, to the Commission’s entry of this Order that:
 - a. Makes findings by the Commission that Respondents violated Sections 2(a)(13)(F)-(G) and 4s(h)(1)(B) of the Act, 7 U.S.C. §§ 2(a)(13)(F)-(G), 6s(h)(1)(B), and Regulations 23.602(a), 43.3, 45.3, 45.4 and 45.14, 17 C.F.R. §§ 23.602(a), 43.3, 45.3, 45.4, and 45.14 (2022);
 - b. Orders Respondents to cease and desist from violating Sections 2(a)(13)(F)-(G), and 4s(h)(1)(B) of the Act, and Regulations 23.602(a), 43.3, 45.3, 45.4, and 45.14;
 - c. Orders Respondents to pay a CMP Obligation in the amount of eight million dollars (\$8,000,000.00), plus post-judgment interest within ten days of the date of entry of this Order. If the CMP Obligation is not paid in full within ten days of the date of entry of the Order, then post-judgment interest shall accrue on the CMP Obligation beginning on the date of entry of the Order and shall be determined by using the Treasury Bill rate prevailing on the date of entry of the Order pursuant to 28 U.S.C. § 1961;
 - d. Orders Respondents and their successors and assigns to comply with the conditions and undertakings consented to in the Offer and as set forth in Part VI of this Order; and
- G. Represents that Respondents have already taken remedial action to comply with the Act and Regulations including, but not limited to, the following:
 - a. Enhancing its swap data reporting systems to provide for compliant data reporting;
 - b. Enhancing swap data reporting controls to monitor for complete, timely, and accurate swap data reporting;
 - c. Enhancing relevant policies and/or procedures relating to swap data reporting; and
 - d. Proactively identifying and remediating issues disclosed to the Division, including back-reporting of certain pre- and post-allocation swaps.

Upon consideration, the Commission has determined to accept the Offer.

VI. ORDER

Accordingly, IT IS HEREBY ORDERED THAT:

- A. Respondents and their successors and assigns shall cease and desist from violating Sections 2(a)(13)(F)-(G) and 4s(h)(1)(B) of the Act, 7 U.S.C. §§ 2(a)(13)(F)-(G), 6s(h)(1)(B), and Regulations 23.602(a), 43.3, 45.3, 45.4, and 45.14, 17 C.F.R. §§ 23.602(a), 43.3, 45.3, 45.4, and 45.14 (2022).
- B. Respondents shall pay, jointly and severally, a CMP Obligation in the amount of eight million dollars (\$8,000,000.00). If the CMP Obligation is not paid in full within ten days of the date of entry of this Order, then post-judgment interest shall accrue on the CMP Obligation beginning on the date of entry of this Order and shall be determined by using the Treasury Bill rate prevailing on the date of entry of this Order pursuant to 28 U.S.C. § 1961 (2018).

Respondents shall pay the CMP Obligation and any post-judgment interest by electronic funds transfer, U.S. postal money order, certified check, bank cashier's check, or bank money order. If payment is to be made other than by electronic funds transfer, then the payment shall be made payable to the Commodity Futures Trading Commission and sent to the address below:

CFTC
C/O ESC/AMK-326; RM 265
6500 S. MacArthur Blvd.
Oklahoma City, OK 73169
(405) 954-6569 office
(405) 954-1620 fax
9-AMC-AR-CFTC@faa.gov

If payment is to be made by electronic funds transfer, Respondents shall contact Tonia King or her successor at the above address to receive payment instructions and shall fully comply with those instructions. Respondents shall accompany payment of the CMP Obligation with a cover letter that identifies the paying Respondents and the name and docket number of this proceeding. The paying Respondents shall simultaneously transmit copies of the cover letter and the form of payment to the Chief Financial Officer, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street, NW, Washington, D.C. 20581.

- C. Respondents and their successors, and assigns shall comply with the following conditions and undertakings set forth in the Offer:
 - 1. Public Statements: Respondents agree that neither they nor any of their successors and assigns, agents, or employees under their authority or control shall take any action or make any public statement denying, directly or indirectly, any findings or conclusions in this Order or creating, or tending to create, the impression that this Order is without a factual basis; provided, however, that

nothing in this provision shall affect Respondents': (i) testimonial obligations; or (ii) right to take legal positions in other proceedings to which the Commission is not a party. Respondents and their successors, and assigns shall comply with this agreement, and shall undertake all steps necessary to ensure that all of their agents and/or employees under their authority or control understand and comply with this agreement.

2. Partial Satisfaction: Respondents understand and agree that any acceptance by the Commission of any partial payment of Respondents' CMP Obligation shall not be deemed a waiver of their obligation to make further payments pursuant to this Order, or a waiver of the Commission's right to seek to compel payment of any remaining balance.
3. Change of Address/Phone: Until such time as Respondents satisfy in full their CMP Obligation as set forth in this Order, Respondents shall provide written notice to the Commission by certified mail of any change to their telephone number or their mailing address within ten calendar days of the change.
4. Remediation: Respondents will continue to undertake extensive remedial measures, including measures to implement and strengthen their internal controls and procedures relating to swaps reporting and related supervision of their swap dealer business. With respect to their remediation efforts to the extent not already undertaken (*see supra* Section V.G.), Respondents undertake that:
 - a. Respondents will continue to implement and improve their internal controls and procedures in a manner reasonably designed to ensure compliance with Commission Regulations relating to swaps reporting;
 - b. As part of their efforts to comply with Parts 43 and 45 of the Regulations, Respondents' remediation improvements will include:
 - Performing further review, as necessary, of their current trade reporting practices with respect to: (i) information and data requirements under Parts 43 and 45 of the Regulations; (ii) data quality and accuracy; and (iii) reporting trades as soon as technologically practicable as required under Parts 43 and 45 of the Regulations;
 - Further enhancing, as necessary, their existing operating procedures in a manner reasonably designed to ensure that, where Respondents are the reporting party, they report: (i) all information and data as required under Parts 43 and 45 of the Regulations; (ii) data that accurately reflects trades; and (iii) trades as soon as technologically practicable as required under Parts 43 and 45 of the Regulations;
 - Further enhancing, as necessary, their trade reporting control framework and quality assurance processes, including monitoring and escalating trade reporting exceptions;

- Further enhancing, as necessary their governance framework over trade reporting, and
- Further enhancing, as necessary, their trade reporting compliance training program.

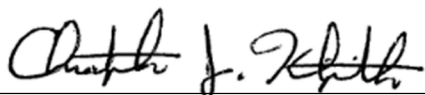
Respondents shall, no later than six months after the entry of this Order and, again, no later than 12 months after entry of this Order, submit a report to the Commission, through the Division, explaining how they have complied with the undertakings set forth herein. The reports shall contain a certification from each Respondents' CCO and a representative from each Respondents' Executive Management, after consultation with Respondents and their CCOs, that Respondents have complied with the undertakings set forth above, and that they have established policies, procedures, and controls to satisfy the undertakings set forth in this Order.

5. Cooperation, in General: Respondents shall cooperate fully and expeditiously with the Commission, including the Commission's Division of Enforcement, in this action, and in any current or future Commission investigation or action related thereto. Respondents shall also cooperate in any investigation, civil litigation, or administrative matter related to, or arising from, the subject matter of this action.
6. Until such time as Respondents satisfy in full their CMP Obligation, upon the commencement by or against Respondents of insolvency, receivership or bankruptcy proceedings or any other proceedings for the settlement of Respondents' debts, all notices to creditors required to be furnished to the Commission under Title 11 of the United States Code or other applicable law with respect to such insolvency, receivership bankruptcy or other proceedings, shall be sent to the address below:

Secretary of the Commission
Office of the General Counsel
Commodity Futures Trading Commission
Three Lafayette Centre
1155 21st Street, N.W.
Washington, DC 20581

The provisions of this Order shall be effective as of this date.

By the Commission.



Christopher J. Kirkpatrick
Secretary of the Commission
Commodity Futures Trading Commission

Dated: September 29, 2023