

– FACT SHEET –

The CFTC's Proposed 48-Hour Public Reporting Delays for Block Transactions Would Dramatically Reduce Transparency and Fair Competition in the Swaps Markets

On May 22, 2020, Better Markets filed a [comment letter](#) on the Commodity Futures Trading Commission's (CFTC) recently proposed rulemakings to amend certain public swaps reporting and related regulations. The CFTC's proposals meritoriously address certain reporting issues. **However, the CFTC's proposals include provisions that would dramatically increase opacity in the swaps markets by delaying public reporting timelines for all block transactions to 48 hours, representing more than a 19,000 percent increase in permitted reporting delays for critical swaps market segments.**

The 48-hour block trade reporting delays would severely damage improvements to post-trade transparency, liquidity, risk management, market integrity, and fair competition. That proposed element, instead, would provide unfair, significant, and indefensible trading and informational advantages primarily to just four U.S. bank holding companies that already facilitate more than 87 percent of the reported \$201 trillion in derivatives within the U.S. banking system.

In addition, the proposed 48-hour public reporting delay for block transactions must be withdrawn for the following reasons:

- **No Empirical Basis:** The CFTC's proposal essentially ignores the empirical literature demonstrating the beneficial impact of real-time swaps reporting, with minimal block delays only for the very largest swaps. Even a cursory examination of the vast body of evidence available to the CFTC would demonstrate that the proposal's block trading delays represent an injudicious and indefensible policy change. Furthermore, the CFTC's proposal fails to account for the robust administrative record and the reportedly now-abandoned Financial Industry Regulatory Authority (FINRA) rulemaking to institute a similar 48-hour delayed reporting framework for certain corporate bonds.
- **No Legal Basis:** The CFTC's proposal contravenes the statutory objectives of the Commodity Exchange Act (CEA) and the letter and spirit of the Dodd-Frank Act Wall Street Reform and Consumer Protection Act of 2010's post-trade transparency reforms of the swaps markets. In addition, the CFTC's proposal fails to consider the costs and benefits of the proposal, omitting material information required to solicit meaningful public input on a radical departure from current law.
- **No Information on Actual Application and Effect:** The CFTC's proposal simultaneously changes multiple elements of the real-time public reporting framework, obscuring the actual application and effect of the proposed 48-hour reporting delay for block transactions. The proposal does not solely change the reporting timeline for block transactions but also the methodology and swap categories used to determine the scope of transactions eligible for the dramatically delayed reporting timeline.

Better Markets is a public interest 501(c)(3) non-profit based in Washington, DC that advocates for greater transparency, accountability, and oversight in the domestic and global capital and commodity markets, to protect the American Dream of homes, jobs, savings, education, a secure retirement, and a rising standard of living.