

August 21, 2013

Elizabeth M. Murphy  
Secretary  
Securities and Exchange Commission  
100 F Street, NE  
Washington, DC  
20549-1090

Submitted to [rule-comments@sec.gov](mailto:rule-comments@sec.gov)

Re: **Proposed Rule: Cross-Border Security-Based Swap Activities (File Numbers S7-02-13; S7-34-10)**

Dear Sir/Madam:

Markit is pleased to submit the following comments to the Securities and Exchange Commission (the "**Commission**" or the "**SEC**") in response to its proposed rule: *Cross-Border Security-Based Swap Activities* (the "**Proposed Rules**").<sup>1</sup>

## Introduction

Markit<sup>2</sup> is a provider of financial information services to the global financial markets, offering independent data, valuations, risk analytics, as well as processing services across regions, asset classes and financial instruments. Our products and services are used by a large number of market participants to reduce risk, increase transparency, and improve the operational efficiency in their financial markets activities.

Most of Markit's processing services are provided by MarkitSERV,<sup>3</sup> a company that offers confirmation, connectivity, and reporting services to the global derivatives markets, making it easier for participants in these markets to interact with each other. Specifically, MarkitSERV provides trade processing, confirmation, matching, and reconciliation services for derivatives across regions and asset classes, as well as universal middleware connectivity for downstream processing such as clearing and reporting. Such services, which are offered also by various other providers, are widely used by participants in these markets today and are recognized as tools to increase efficiency, reduce cost, and secure legal certainty. With over 2,600 firms

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<sup>1</sup> Cross-Border Security-Based Swap Activities; Re-Proposal of Regulation SBSR and Certain Rules and Forms Relating to the Registration of Security-Based Swap Dealers and Major Security-Based Swap Participants, 78 Fed. Reg. 30968 (May 23, 2013).

<sup>2</sup> Markit is a financial information services company with over 3,000 employees in North America, Europe, and Asia Pacific. The company provides independent data, valuations and processing services for financial products across asset classes in order to reduce risk and improve operational efficiency. Please see [www.markit.com](http://www.markit.com) for additional information.

<sup>3</sup> MarkitSERV, a wholly owned subsidiary of Markit Group Limited, provides a single gateway for OTC derivatives trade processing. The company offers trade processing, confirmation, matching, and reconciliation services across regions and asset classes, including interest rate, credit, equity, and foreign exchange derivatives. MarkitSERV also connects dealers and buy-side institutions to trade execution venues, CCPs, and Trade Repositories. Please see [www.markitserv.com](http://www.markitserv.com) for additional information.

globally using the MarkitSERV platforms, including agents for over 29,000 buy-side fund entities, our legal, operational, and technological infrastructure plays an important role in supporting the derivatives markets in North America, Europe and the Asia-Pacific region. In 2012, over 20 million derivative transaction processing events were processed using MarkitSERV.

Markit has been actively and constructively engaged in the discussion regarding regulatory reform of financial markets. We have provided regulatory authorities with our insights on numerous issues, such as the confirmation of derivative transactions, efficient means of reporting transactions to Trade Repositories (“*TRs*”), clearing connectivity, and pre-trade credit checks. We have also advised regulatory bodies on approaches to enable timely and cost-effective implementation of newly established requirements, for example through the use of multi-layered phase-in or by providing participants with a choice of means for satisfying regulatory requirements. Additionally, we work closely with the industry and other relevant third-party providers to ensure adequate preparation, testing and data loading. Over recent years, Markit has submitted over 80 comment letters to regulatory authorities around the world and we have participated in numerous roundtables.<sup>4</sup>

## Comments

Over the last several years, MarkitSERV has spent a considerable amount of time and significant resources specifying, building and testing automated systems that will help its customers comply with requirements to report their OTC derivatives’ transactions to TRs around the globe. On that basis, MarkitSERV today provides market participants with a universal solution for compliance with their regulatory and real-time reporting obligations based on its established connectivity between counterparties, execution venues, CCPs, and TRs. Many major derivative dealers use MarkitSERV to comply with the reporting obligations established by the CFTC<sup>5</sup> and all of them rely on MarkitSERV to meet their OTC Derivatives Regulators Forum (“*ODRF*”) reporting requirements for interest rates, credit and equity derivatives.

On that basis we provide the Commission with our comments on the Proposed Rules, specifically in relation to Regulation SBSR.

### **i) Market participants and infrastructure providers should be given sufficient time to analyze final requirements and prepare for compliance**

We urge the Commission to provide counterparties and infrastructure providers with sufficient time to prepare for the implementation of the reporting requirements. We believe that this will ultimately enable a timely, effective and cost-efficient implementation.

Given our extensive experience in helping market participants comply with requirements to report their OTC derivatives transactions to TRs in multiple jurisdictions,<sup>6</sup> we know that the introduction of reporting requirements for OTC derivatives transactions imposes significant burdens on the marketplace, even if it occurred only in a single jurisdiction. However, such requirements are scheduled to become effective in several major jurisdictions, including Europe, Hong Kong, Australia, and Singapore, over the coming 9 months, herewith further increasing this burden. Many market participants and providers of the relevant infrastructure are therefore faced with a situation where resources that would also be required to prepare for the introduction of reporting under the Commission’s regulations will effectively be tied up with implementation in other jurisdictions for the foreseeable future.

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<sup>4</sup> This number includes responses that have been submitted by MarkitSERV.

<sup>5</sup> Real Time Public Reporting of Swap Transaction Data, 77 Fed. Reg. 1182 (Jan. 9, 2012); Swap Data Recordkeeping and Reporting, 77 Fed. Reg. 2136 (Jan. 13, 2012); and Swap Data Recordkeeping and Reporting Requirements: Pre-Enactment and Transition Swaps, 77 Fed. Reg. 35200 (June 12, 2012).

<sup>6</sup> For example, MarkitSERV platforms are live for reporting to TRs in the United States and in Japan, and will be going live in Hong Kong and Australia in December and in Europe and Singapore in January.

Many market participants are looking to third party providers to simplify the process of complying with requirements to report their derivatives transactions to TRs. This is because they can centralize and automate the logic that is required to determine relevant key characteristics for any given swap or security-based swap transaction (“**SBS**”) under reporting requirements and the Proposed Rules, such as its reportability and determination of the reporting party. It will hence reduce overall costs and increase the efficiency of participant reporting. It is also likely improve the quality of data that is received and stored by Security-Based Swap Data Repositories (“**SB-SDRs**”) because it would reduce the likelihood of duplicative reporting (when a transaction is inadvertently reported by both sides) or of under-reporting (when the transaction is inadvertently not reported by either side).

While we have established the necessary reporting logic on the MarkitSERV platforms to perform the various CFTC reporting requirements, we are also preparing our systems for the introduction of reporting requirements in other jurisdictions on an ongoing basis. Similarly, once the Commission’s rules have been finalized, we will start gathering relevant information from clients, for example about their expected registration status or whether they believe they will be considered a “U.S. Person” under the Proposed Rules. Based on our experience, we urge the Commission to provide sufficient time between the publication of the final rules and the compliance dates for the reporting requirements to allow all relevant parties to make additional necessary changes to the reporting logic as applicable, and to gather or correct configuration data from clients. This is of particular concern given the degree of complexity of cross border issues and the possibility that the Proposed Rules will be modified before they are issued in their final form.

In this context the Commission should also note that many internationally active market participants will not make final decisions about their registration status and elections with respect to, for example, substituted compliance before the relevant cross-border rules have been published in their final form. As a result, many market participants may not have the requisite information or answers needed to configure either their own or third party systems in time to meet any aggressive compliance dates. Market participants may need time to prepare and issue SEC-related cross-border representation letters in order to efficiently provide counterparties with the information necessary to determine whether compliance with various regulations is required.<sup>7</sup>

We therefore encourage the Commission to provide the market place, *i.e.*, counterparties to SBS as well as the relevant infrastructure providers, with a sufficient period of time between the publication of the final rules and any initial compliance date for the reporting requirements. Whether or not the final rules deviate from the Proposed Rules (and therefore require adjustments to the reporting logic), market participants will likely need at least 6 months to prepare for compliance with the Commission’s reporting requirements.<sup>8</sup>

## **ii) Compliance dates should be set to fall on the start of the week**

Based upon our many years’ experience with successfully implementing new operational processes, we believe that scheduling compliance dates for the Commission’s reporting requirements (as well as other requirements) to generally fall on Mondays would facilitate a less risky transition into the new compliance regime.

This is because it would allow market participants and their third party service providers to make use of the immediately preceding weekend for the necessary preparatory work, giving them more time to load the required static data and to configure their production systems for reporting. We believe that such approach

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<sup>7</sup> This would be similar to the representation letters related to the CFTC “Interpretive Guidance and Policy Statement Regarding Compliance with Certain Swap Regulations” (the “Guidance”) that allow market participants to efficiently provide their counterparties with status representations needed to determine whether compliance with various CFTC swap regulations is required by the Guidance.


<sup>8</sup> Additional time beyond the suggested 6 months may be needed based on a number of factors including the complexity of the Final Rules, changes in the Final Rules from the Proposed Rule, and variances from other regulatory regimes, such as the CFTC’s Guidance.

will be very much preferable to trying to perform these challenging and time-consuming tasks on a weekday, during which time the relevant systems are likely required to be available for production use in other time zones.

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Markit appreciates the opportunity to comment on the SEC's Proposed Rules on *Cross-Border Security-Based Swap Activities*. We would be happy to elaborate or further discuss any of the points addressed above. In the event you may have any questions, please do not hesitate to contact the undersigned or Marcus Schuler at [marcus.schueler@markit.com](mailto:marcus.schueler@markit.com).

Yours sincerely,

A handwritten signature in blue ink, appearing to read "J. Gooch". The signature is fluid and cursive, with a long horizontal stroke at the top.

Jeff Gooch  
Head of Processing, Markit  
Chair and CEO, MarkitSERV