



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

Email: dmoletters@cftc.gov

15 November, 2022

Re: CFTC Letter No. 15-29 and CFTC Letter No. 16-72 – Request for Modification

Dear Director McGonagle:

Yieldbroker Pty Limited (“Yieldbroker”) is writing to respectfully request a modification to CFTC No. 15-29 (the “QALM Letter”) and CFTC Letter No. 16-72 to remove the reporting conditions set out in section I.E.2.i of the QALM Letter and remove no-action position number three in section I.C. of CFTC Letter No. 16-72.¹ This would alleviate technological limitations that are limiting Yieldbroker’s ability to allow U.S. persons to trade on its platform. All six U.S. persons that trade on Yieldbroker are provisionally registered with the CFTC as swap dealers (the “U.S. swap dealers”),² and all of the U.S. swap dealers have indicated that they are amenable to being treated as the reporting counterparty for swaps they enter into on Yieldbroker’s platform. This change would occur without a gap in reporting and in a way that would maintain the Commission’s ability to identify trades executed on Yieldbroker’s platform.

Under the QALM Letter, a Qualifying Australian Licensed Market, of which Yieldbroker is the only one, reports Part 45 creation data and initial part 43 data as if it were a SEF where one or both of the trading counterparties is a U.S. person. Yieldbroker has had reporting systems in place to facilitate such reporting since November 2016. At the time, Yieldbroker only operated an interdealer derivatives platform. Over the past 4 years, however, Yieldbroker has been actively developing buy-side participation on its derivatives platform. This shift to increasing buy-side participation has uncovered a number of workflow challenges related to reporting that, until they are resolved, either prohibit Yieldbroker from permitting the U.S. swap dealers to trade on the new platform or require complex workflow workarounds in order to facilitate trading by the U.S. swap dealers.

¹ Where both parties to the swap are U.S. persons, the reporting counterparty would be one of those U.S. persons as determined by the reporting hierarchy for off-facility swaps in CFTC Regulations 43.3(a)(3) and 45.8(a)-(c), (d)(2), (e) and (f)(2).

² The six U.S. swap dealers are: Bank of America N.A., Citibank N.A., Jefferies Financial Services, Inc., JPMorgan Chase Bank N.A., Morgan Stanley Capital Services LLC and SMBC Capital Markets, Inc.



Currently, given the absence of a dedicated QALM workflow, Yieldbroker makes use of Markitwire's Qualified Multilateral Trading Facility ("QMTF") workflow. Trades tagged as QMTF are sent to an SDR on behalf of the QMTF itself. However, tagging a trade as QMTF causes a number of issues for Yieldbroker's platform, which are described in detail in Appendix 1. As Yieldbroker is the only QALM, the third-party reporting services it uses have not prioritized changes to their workflows that would alleviate these limitations.

These problems would be solved without further changes to the third-party systems if Yieldbroker could tag swaps executed on its platform as "Off-Facility." However, tagging the swaps as "Off-Facility" would require reporting by one of the parties to the swap, to the extent one or both parties is a U.S. person.

If the Commission staff were to agree to modify the QALM Letter as requested in this letter, Yieldbroker would change the settings in its MarkitWire implementation from having executed swaps coded as QMTF to coding all trades as Off-Facility. The executed swaps would then follow the reporting process for Off-Facility trades, meaning that Yieldbroker would not report and, for those U.S. persons using MarkitWire for reporting, the MarkitWire workflow would have the U.S. person report instead. While not all of the U.S. swap dealers use MarkitWire to report, those who do not use MarkitWire have agreed to start reporting, either directly or through a third-party service, immediately upon Yieldbroker notifying them that Yieldbroker will no longer report. Thus, there should be no gap between Yieldbroker reporting and the U.S. swap dealers reporting. New U.S. person clients will need to report any trades entered into on Yieldbroker.

Even with the modification requested in this letter, the Commission would be able to identify those swaps entered into on Yieldbroker. There is a field populated within MarkitWire for the broker. Yieldbroker's code is YB_E, and is currently included in the fields reported to the SDR by MarkitWire on behalf of Yieldbroker. In order for this information to be reported as part of a U.S. person's Part 45 and Part 43 reporting, the U.S. person will need to have that code mapped to trades executed on Yieldbroker. When that coding work is complete, the CFTC will be able to identify any trades involving Yieldbroker based on the code.

As part of this change Yieldbroker would modify its Operating Rule 23.11 – Reporting, which currently requires participants to "ensure that they have procedures in place that prevent them from reporting part 45 creation data and initial part 43 data in their capacities as counterparties to such Yieldbroker Reportable Transactions." The modified Operation Rule 23.11 would state that "Participants will have all applicable reporting responsibilities for Reportable Transactions pursuant to parts 43 and 45 of the CFTC's regulations for such Derivative Transactions executed on or pursuant to the rules of Yieldbroker's Derivatives Trading Platform." The Australian Securities and Investments Commission ("ASIC"), Yieldbroker's primary regulator, has no objection in principle to this change to Yieldbroker's Operating Rules.



All of the six U.S. swap dealers have systems in place to report to SDRs, and all six have indicated that they are amenable to being treated as the reporting counterparty for swaps they enter into on Yieldbroker's platform.

For all of these reasons, Yieldbroker respectfully requests that the QALM Letter be modified to remove the reporting conditions set out in section I.E.2.i and CFTC Letter No. 16-72 be modified to remove no-action position number three in section I.C.

Yieldbroker would welcome the opportunity to discuss this modification request further with the CFTC staff at your convenience. Please feel free to contact the undersigned at +61 2 9994 2894 or fiona.breen@yieldbroker.com with any questions. Pursuant to CFTC Rule 140.99(c)(3)(ii), Yieldbroker hereby undertakes that, if at any time prior to the issuance of a modified no-action letter, any material representation made in this letter ceases to be true and complete, it will promptly inform the Commission staff in writing of all materially changed facts and circumstances.

Yours sincerely,

A handwritten signature in black ink that reads "Fiona Breen". The signature is written in a cursive, flowing style.

Fiona Breen
Head of Corporate & Company Secretary
Yieldbroker Pty Limited



Certification

(Pursuant to CFTC Rule 140.99(c)(3)(i))

I hereby certify that the material facts set forth in the attached letter, dated 15 November, 2022, are true and complete to the best of my knowledge.

A handwritten signature in black ink that reads "Fiona Breen".

By:

Fiona Breen

Head of Corporate & Company Secretary

Yieldbroker Pty Limited



Appendix 1 - QALM Impacted Workflows

No	QALM Impacted Workflow	Issue	Cause	Impact	Workaround
1	Prime Broker	Prime Broker trades that involve a US Person are rejected upon submission to Markitwire	Markitwire does not support this Prime Broker workflow for Yieldbroker submitted 'QMTF' trades	<p>Trades are rejected from Markitwire post execution</p> <p>Clients that are US Persons cannot use the platform.</p> <p>Clients cannot have US Persons on their dealer panel.</p>	<p>Yieldbroker has to remove US Persons from a clients dealer panel. If a Client is a US Person then they cannot use the platform</p> <p>One option would be for MW to support US Person Prime Broker flows when submitted by YB. Markitwire have commented that this is unlikely to be prioritised in their global dev stack.</p>
2	MTM (MarkitServ Trade Manager)	Trades that involve a US Person (On-Facility) are rejected from MW post matching in MTM	MTM does not support 'On-Facility' trades (i.e. QMTF)	<p>Trades cannot be matched (MTM), affirmed (MW) and cleared (LCH).</p> <p>Clients that are US Persons cannot use the platform</p>	<p>YB has to remove US Persons from a clients dealer panel. If a Client is a US Person then they cannot use the platform</p> <p>Possible solution would be for MW/MTM to support US</p>



No	QALM Impacted Workflow	Issue	Cause	Impact	Workaround
				Client cannot have US Persons on their dealer panel. Client trades off platform when dealing with US dealers.	Persons/QMTF trades when submitted by YB. Markitwire have raised a ticket to have this fixed however given Yieldbroker is the only platform requesting this, it is highly unlikely that this will be prioritised in their global development stack.
3	Post Trade Credit Checking (Block Trades)	<p>Post trade credit checks cannot be supported for trades involving US Persons.</p> <p>Applicable for clients that request a post trade workflow</p>	Currently the LCH auto clears trades that are sent to Markitwire tagged as QMTF. If pre trade credit checks are not performed for QMTF trades then these trades will effectively not be credit checked at all prior to clearing.	<p>Clients that are US Persons and that wish to credit check post trade cannot use the platform</p> <p>Client cannot have US Persons on their dealer panel.</p> <p>Client trades off platform when dealing with US dealers.</p>	Yieldbroker has to remove US Persons from a clients dealer panel. If a Client is a US Person then they cannot use the platform
4	Manual Markitwire	Clients that do not want Yieldbroker to book trades in Markitwire (due to need to maintain	Trades booked by dealers in MW cannot be flagged as QMTF with Yieldbroker as the venue.	Yieldbroker is unable to report trades involving US-Persons as trade is not sent to Markitwire by Yieldbroker.	Yieldbroker has to remove US Persons from a clients dealer panel. If a Client is a US Person then they cannot use the platform



No	QALM Impacted Workflow	Issue	Cause	Impact	Workaround
		their existing workflow e.g. Aladdin uncleared/bilateral clients) cannot have US Persons on their dealer panel		<p>Clients that are US Persons cannot use the platform.</p> <p>Clients cannot have US Persons on their dealer panel.</p>	
5 ³	LCH Credit Checking (Block Trades)	For LCH client clearing, trades not involving US persons (i.e. trades tagged as Off-Facility) are getting credit checked twice.	<p>LCH treatment of credit checking protocols is based on a trade being On-Facility (i.e. tagged as QMTF) or Off-Facility (tagged as Off Facility)</p> <p>QMTF tagged trades are autocleared on the assumption that credit has already been approved</p> <p>Off-Facility Trade:</p>	<p>Client trades are being rejected from clearing post trade as credit is being applied twice meaning limits are breached. Certainty of clearing is not achievable</p> <p>Requires a complex spilt process within Yieldbroker depending on the US person status and the clearing house involved (i.e. this issue does not exist for ASX client cleared trades).</p>	<p>Yieldbroker has had to implement a split process depending on whether or not a US Person is involved.</p> <p><u>For QMTF tagged trades, the process is:</u></p> <ul style="list-style-type: none"> - Check Credit pre-trade - Trade sent to Markitwire - Trade auto cleared by LCH <p><u>For Non QMTF tagged Trades (where client has elected to pre-trade credit check):</u></p> <ul style="list-style-type: none"> - Check Credit pre-trade

³ While acknowledged that this issue is caused by the "Off-facility" flag rather than the "QMTF" flag, it has been provided to illustrate the dual workflows which Yieldbroker is required to develop.



No	QALM Impacted Workflow	Issue	Cause	Impact	Workaround
			LCH request credit based on the assumption that credit check has not taken place (as 'Off-Facility' trades do not require pre trade credit checking)		<ul style="list-style-type: none">- Credit Cancelled- Trade sent to Markitwire- Trade is auto cleared by LCH as it is 'On-Facility' <p>YB have had to implement different process for client clearing for LCH and ASX.</p>