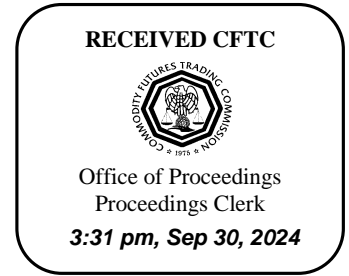


**UNITED STATES OF AMERICA**  
**Before the**  
**COMMODITY FUTURES TRADING COMMISSION**

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 )  
**In the Matter of:** )  
 )  
**Barclays Bank PLC,** )  
 ) **CFTC Docket No. 24-39**  
 )  
 **Respondent.** )  
\_\_\_\_\_ )



**ORDER INSTITUTING PROCEEDINGS PURSUANT TO  
SECTION 6(c) AND 6(d) OF THE COMMODITY EXCHANGE ACT,  
MAKING FINDINGS, AND IMPOSING REMEDIAL SANCTIONS**

**I. INTRODUCTION**

The Commodity Futures Trading Commission (“Commission”) has reason to believe that during the period from at least 2018 through 2023 (the “Relevant Period”), Barclays Bank PLC (“Barclays” or “Respondent”) violated Sections 2(a)(13) and 4r(a)(3) of the Commodity Exchange Act (the “Act”), 7 U.S.C. §§ 2(a)(13), 6r(a)(3), and Regulations 43.3 and 45.3-4, 17 C.F.R. §§ 43.3 and 45.3-4<sup>1</sup> of the Commission’s Regulations (“Regulations”) 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 Respondent 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, Respondent has submitted an Offer of Settlement (“Offer”), which the Commission has determined to accept. Respondent admits the facts set forth in Section II of this Order Instituting Proceedings Pursuant to Section 6(c) and (d) of the Act, Making Findings, and Imposing Remedial Sanctions (“Order”), acknowledges that its conduct violated the Act and Regulations, consents to the entry of this Order, and acknowledges service of this Order.<sup>2</sup>

<sup>1</sup> During the Relevant Period, the Commission amended Parts 43 and 45 on November 25, 2020, with the new regulations becoming effective on January 25, 2021. 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). These amendments had a compliance date of May 25, 2022, and further there was a staff letter providing a no-action position, which extended the implementation until December 5, 2022. See CFTC Letter No. 22-03, No-Action, January 31, 2022. The amendments did not materially change the substantive requirements at issue in this order.

<sup>2</sup> Respondent agrees to the use of the findings of fact and conclusions of law in this Order in this proceeding and in any other proceeding brought by the Commission or to which the Commission is a party or claimant, and agrees that

## II. FINDINGS

The Commission finds the following:

### A. SUMMARY

The 2008 financial crisis highlighted the need for market regulators to have accurate data to identify and evaluate market exposure, counterparty relationships, and counterparty risk. In the Dodd-Frank Act, Congress directed the Commission to adopt regulations that prescribe standards for swap data reporting. The Commission adopted these regulations and intends that the reported information be used for a variety of purposes, including assessing individual traders' activities and potential market power and risk, as well as monitoring compliance with Commission or exchange speculative position limit rules. The Commission's market surveillance system depends on firms' properly reporting because, among other things, a firm's failure to accurately report positions may allow traders to hold positions in excess of speculative limits and to exercise market power without detection. In addition, the Commission's swap data reporting regulations provide market participants with crucial real-time information regarding market liquidity and pricing.

In 2020, the Commission refined its reporting requirements to ensure the CFTC receives accurate, complete, and high-quality data for swap transactions. The Commission's reporting framework is critical for both market transparency and the Commission's risk monitoring and oversight functions. The Commission's robust enforcement of its swap reporting requirements ensures that the goals of customer protection, market integrity, and the reduction of systemic risk are fully realized.

During the Relevant Period, Barclays failed to correctly report, or failed to timely report, more than five million swap transactions. These reporting failures stemmed from multiple, distinct deficiencies in Barclays' reporting systems and software during the Relevant Period.

In accepting Respondent's Offer of Settlement, the Commission recognizes Barclays' substantial cooperation during the Division of Enforcement's ("Division") investigation of this matter. Barclays' cooperation included proactively flagging swap reporting issues for the Commission during the Division's investigation, and voluntarily providing detailed and specific information regarding the violations described in this Order. The Commission also acknowledges Barclays' representations concerning their remediation in connection with this matter. The Commission's recognition of Barclays' substantial cooperation and appropriate remediation is further reflected in the form of a reduced civil monetary penalty.

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they shall be taken as true and correct and be given preclusive effect therein, without further proof. Respondent does not consent, however, to the use of this Order, or the findings or conclusions herein, as the sole basis for any other proceeding brought by the Commission or to which the Commission is a party or claimant, other than: a proceeding in bankruptcy or receivership; or a proceeding to enforce the terms of this Order. Respondent does not consent to the use of the Offer or this Order, or the findings or conclusions in this Order, by any other party in any other proceeding.

## **B. RESPONDENT**

**Barclays Bank PLC** (“Barclays”) is registered with the Commission as a swap dealer.

## **C. FACTS**

### **1. Swap Reporting Violations**

During the period 2018 through 2023, Barclays failed to correctly report, or failed to timely report, more than five million swap transactions in violation of the Act and the Regulations. Barclays’ reporting failures included: (1) transactions that were reported incorrectly; and (2) transactions that were not timely reported. Consequently, Barclays violated Sections 2(a)(13) and 4r(a)(3) of the Act, 7 U.S.C. § 2(a)(13), 6r(a)(3), and Regulations 43.3 and 45.3-4, 17 C.F.R. § 43.3, 45.3-4.

The principal categories of reporting failures during the Relevant Period are as follows.

Misreporting Due to Duplicate Swap Identifier: Throughout 2018 to 2023, Barclays failed to correctly report certain swap transactions because it assigned them the same supposedly unique identifying number as other, different swap transactions. The reports regarding these transactions appeared (incorrectly) in the swap data repository (“SDR”) to be amended versions of prior reports of (different) transactions submitted with the same identifying number. The result was that distinct swap transactions were conflated, and incorrectly reported as if they were the same transaction. This issue affected more than 50,000 swap transactions during the Relevant Period.

Incorrect Reporting of Primary Economic Terms: During the Relevant Period, Barclays incorrectly reported primary economic terms for more than 129,000 credit and interest rate swap transactions. Barclays had multiple issues that resulted in incorrect reporting of primary economic terms during this period, including issues relating to a third-party vendor retained by Barclays.<sup>3</sup>

Misreported Time Stamps: This issue affected more than 121,000 swap transactions from November, 2020 to April, 2022. Following the implementation of new swap reporting architecture by the SDR (DTCC), Barclays reported certain transactions with an initial time stamp that was correct. However, subsequently, Barclays overwrote these transactions with the current date whenever an updated report was filed. Accordingly, the records in the SDR for these transactions contained an incorrect execution time stamp for the original transaction.

Continuation Data Reporting Errors: This issue affected more than 4.5 million swap transactions from 2018 to 2023. These swap transactions were initially reported with valuation data but, subsequently, Barclays submitted continuation reports that did not effectively update the valuation data for the swaps in question. There were two principal issues: first, for one category of transactions, Barclays submitted stale valuation data that was associated with an

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<sup>3</sup> Prior to the effective date of the 2020 amendments to the swap reporting rules, Regulation 45.3 referred to “primary economic terms” and confirmation data as components of required swap creation data. 17 C.F.R. § 45.3 (2020). The current version eliminates these references and definitions because “[t]he definitions are unnecessary due to the Commission combining [primary economic terms] data and confirmation data into a single data report in [the new version of] § 45.3.” Swap Data Recordkeeping and Reporting Requirements, 85 Fed. Reg. 75503, 75508 (Nov. 25, 2020).

incorrect date; second, for the other major category of transactions, a swap transaction was terminated, but that event was not effectively reported, with the result that there were ongoing continuation reports with no updated valuation data associated with this (no longer existing) swap transaction.

Late Reporting: This issue affected real-time reporting for more than 940,000 FX and Equity swaps during the period from 2020 to 2022. Barclays failed to timely report these swap transactions as soon as technologically practicable. Most of the late reporting was caused by Barclays opting to make real-time reports at the portfolio level, with the result that a single change to the underlying index required an update to the reports for the entire portfolio. The large size of these updates caused latency issues and, consequently, late reports.

In total, aggregating all these categories of conduct, Barclays either did not correctly report, or did not timely report, more than five million swap transactions throughout the period 2018 to 2023.

## **2. Cooperation and Remediation**

Throughout the Division's investigation, Barclays provided substantial cooperation. Barclays' cooperation has included voluntarily producing thousands of documents to the Division, proactively flagging swap reporting issues for the Commission, and providing specific, detailed information regarding the scope of these issues through voluntary presentations and regular communications with Division staff. Barclays' substantial cooperation materially assisted the Division of Enforcement's investigation.

Barclays moreover has represented that it has voluntarily taken steps to remediate the swap dealers' reporting deficiencies and improve its processes going forward. This remediation has included voluntarily engaging third-party vendors to review and validate its swap reporting processes.

## **III. LEGAL DISCUSSION**

Barclays' swap reporting failures violated Sections 2(a)(13) and 4r(a)(3) of the Act, 7 U.S.C. §§ 2(a)(13), 6r(a)(3), and Regulations 43.3 and 45.3-4, 17 C.F.R. §§ 43.3, 45.3-4.

The Act states that “[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 swap data reporting regulations, which apply to Barclays in its capacity as a registered swap dealer. *See, e.g.*, Parts 43 and 45 of the Regulations, 17 C.F.R. pts. 43 and 45 (2023). The regulations require that swap transactions be timely reported,

and specify that real-time swap reports must be made as soon as technologically practicable<sup>4</sup> after execution. Regulation 43.3(a)(1), 17 C.F.R. § 43.3(a)(1) (2023).

These swap data reporting provisions were designed to enhance transparency, promote standardization, and reduce systemic risk. The accuracy and completeness of swap reporting are critical to the Commission's mission to protect market participants and to ensure market integrity. *See, e.g., In re J.P. Morgan Chase Bank N.A.*, CFTC No. 23-61 (Sep. 29, 2023) (consent order); *In re Morgan Stanley Capital Services LLC*, CFTC No. 20-78 (Sep. 30, 2020) (consent order); *In re Société Générale S.A.*, CFTC No. 17-01, 2016 WL 7210405 (Dec. 7, 2016) (consent order).

Through its failure to report swap transactions consistent with Commission Regulations, Barclays violated Sections 2(a)(13) and 4r(a)(3) and Regulations 43.3 and 45.3-4.

#### **IV. FINDINGS OF VIOLATIONS**

Based on the foregoing, the Commission finds that Respondent violated Sections 2(a)(13) and 4r(a)(3) of the Act, 7 U.S.C. §§ 2(a)(13), 6r(a)(3), and Regulations 43.3 and 45.3-4, 17 C.F.R. §§ 43.3 and 45.3-4.

#### **V. OFFER OF SETTLEMENT**

Respondent has submitted an Offer in which Respondent knowingly and voluntarily:

- A. Consents to the resolution of this matter in an administrative proceeding;
- B. Acknowledges receipt of service of this Order;
- C. Admits the facts described in Section II of this Order and acknowledges that its conduct violated the Act and Regulations;
- D. Admits the jurisdiction of the Commission to all the matters set forth in this Order and for any action or proceeding brought or authorized by the Commission based on a violation of or enforcement of this Order;
- E. Waives:
  - 1. The filing and service of a complaint and notice of hearing;
  - 2. A hearing;

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<sup>4</sup> 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 (2023). Moreover, in the preamble to the initial Part 43 rulemaking, 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).

3. All post-hearing procedures;
  4. Any and all rights or defenses that Respondent has, or might have, for the matter to be adjudicated in a federal district court in the first instance, including any associated right to a jury trial;
  5. Judicial review by any court;
  6. Any and all objections to the participation by any member of the Commission's staff in the Commission's consideration of the Offer;
  7. Any and all claims that it may possess under the Equal Access to Justice Act, 5 U.S.C. § 504 and 28 U.S.C. § 2412, and/or the rules promulgated by the Commission in conformity therewith, Part 148 of the Regulations, 17 C.F.R. pt. 148 (2021), relating to, or arising from, this proceeding;
  8. Any and all claims that it may possess under the Small Business Regulatory Enforcement Fairness Act of 1996, ("SBREFA"), Pub. L. No. 104-121, tit. II, §§ 201-253, 110 Stat 847-74 (codified as amended in scattered sections of 5 U.S.C. and 15 U.S.C.), relating to, or arising from, this proceeding; and
  9. 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 or any other relief, including this Order;
- F. Agrees, for purposes of the waiver of any and all rights under the Equal Access to Justice Act specified in paragraph E.7 above, that it is not the prevailing party in this action;
- G. Stipulates that the record basis on which this Order is entered shall consist solely of the findings contained in this Order to which Respondent has consented in the Offer; and
- H. Consents, solely on the basis of the Offer, to the Commission's entry of this Order that:
1. Makes findings by the Commission that Respondent violated Sections 2(a)(13) and 4r(a)(3) of the Act, 7 U.S.C. §§ 2(a)(13), 6r(a)(3), and Regulations 43.3 and 45.3-4, 17 C.F.R. §§ 43.3, 45.3-4;
  2. Orders Respondent to cease and desist from violating Sections 2(a)(13) and 4r(a)(3), 7 U.S.C. §§ 2(a)(13), 6r(a)(3), and Regulations 43.3 and 45.3-4, 17 C.F.R. §§ 43.3, 45.3-4;
  3. Orders Respondent to pay a civil monetary penalty in the amount of four-million dollars (\$4,000,000) within twenty days of the date of entry of this Order, plus any applicable post-judgment interest; and
  4. Orders Respondent and its successors and assigns to comply with the conditions and undertakings consented to in the Offer and set forth in Part VI of this Order.

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

## VI. ORDER

### Accordingly, IT IS HEREBY ORDERED THAT:

- A. Respondent shall cease and desist from violating Sections 2(a)(13) and 4r(a)(3) of the Act, 7 U.S.C. §§ 2(a)(13), 6r(a)(3), and Regulations 43.3 and 45.3-4, 17 C.F.R. §§ 43.3, 45.3-4;
- B. Respondent shall pay a civil monetary penalty in the amount of four-million dollars (\$4,000,000) (“CMP Obligation”). If the CMP Obligation is not paid in full within twenty days of the date of entry of the Order, then post-judgment interest shall accrue on the unpaid portion of 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.

Respondent 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, Respondent shall make the payment payable to the Commodity Futures Trading Commission, and sent to the address below:

MMAC/ESC/AMK326  
Commodity Futures Trading Commission  
6500 S. MacArthur Blvd.  
Room 266  
Oklahoma City, OK 73169  
9-AMC-AR-CFTC@faa.gov

If payment is to be made by electronic transfer, Respondent shall contact the Federal Aviation Administration at the above address to receive payment instructions and shall fully comply with those instructions. Respondent shall accompany payment of the CMP Obligation with a cover letter that identifies Respondent and the name and docket number of this proceeding. Respondent 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. Respondent and its successors and assigns shall comply with the following conditions and undertakings set forth in the Offer:
  1. Public Statements: Respondent agrees that neither it nor any of its successors, assigns, agents or employees under its 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 Respondent’s (i) testimonial obligations; or (ii) right to take legal positions in other

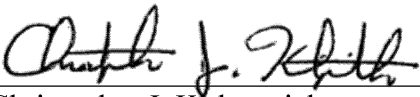
proceedings to which the Commission is not a party. Respondent and its successors and assigns shall comply with this agreement, and shall undertake all steps necessary to ensure that all of its agents and/or employees under its authority or control understand and comply with this agreement.

2. Partial Satisfaction: Respondent understands and agrees that any acceptance by the Commission of any partial payment of Respondent's CMP Obligation shall not be deemed a waiver of its 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 Respondent satisfies in full its CMP Obligation as set forth in this Order, Respondent shall provide written notice to the Commission by certified mail of any change to its telephone number and mailing address within ten calendar days of the change.
4. Notices to Creditors: Until such time as Respondent satisfies in full its CMP Obligation, upon the commencement by or against Respondent of insolvency, receivership or bankruptcy proceedings or any other proceedings for the settlement of Respondent's 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 on this date.**

By the Commission.



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

Dated: September 30, 2024