

COMMODITY FUTURES TRADING COMMISSION

PUBLIC ROUNDTABLE ON  
COMMISSION'S PROPOSED RULEMAKING THAT CALLS FOR  
THE COLLECTION OF ACCOUNT OWNERSHIP AND CONTROL  
INFORMATION

Washington, D.C.

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1 PARTICIPANTS:

2 CODY ALVAREZ  
Division of Market Oversight

3

4 KEITH ANGUISH  
Associate Director, Systems Development  
CME Group, Inc.

5

6 RACHEL BERDANSKY  
Division of Market Oversight

7 ANDY BOOTH  
Chief Technology Officer  
NYSE Liffe U.S.

8

9 KARL COOPER  
Chief Regulatory Officer  
10 NYSE Liffe U.S.

11 GEORGE CRAPPLE  
Co-Chief Executive Officer  
12 Milburn Ridgefield Corporation

13 R.J. CUMMINGS  
Vice President, Product Development  
14 ICE Futures U.S.

15 MARK FABIAN  
Vice President, Market Regulation  
16 ICE Futures U.S.

17 JIM FAY  
Office of Information and Technology Services

18

19 KEVIN FOLEY  
Katten Muchin Rosenman LLP

20 FRANK FRANIAK  
President and Chief Executive Officer  
21 Woodfield Fund Administration LLC

22

1 PARTICIPANTS (CONT'D):

2 JERRY GOLLEY  
Office of Information and Technology Services

3  
4 ANDREI KIRILENKO  
Office of the Chief Economist

5 BARRY LEGROS  
Vice President, Application Systems  
6 ICE Futures U.S.

7 GARY MARTINAITIS  
Division of Market Oversight

8  
9 JIM MORAN  
Director, Global Market Regulation Strategy and  
Technology  
10 CME Group, Inc.

11 JOHN NOWLIN  
Office of Information and Technology Services

12  
13 JOSEPH OTT  
Vice President, Compliance  
Kansas City Board of Trade

14  
15 SEBASTIAN PUJOL  
Division of Market Oversight

16 JOHN ROGERS  
Office of Information and Technology Services

17  
18 MELINDA SCHRAMM  
Chairman  
National Introducing Brokers Association

19  
20 RICK SHILTS  
Division of Market Oversight

21 LESLIE SUTPHEN  
Industry Consultant

22

1 PARTICIPANTS (CONT'D):

2 RAY TUBRIDY  
3 Managing Director Derivatives Sales and Marketing  
4 and Product Development  
5 State Street Global Markets

6 DAN UMSTATTD  
7 Director of Operations  
8 Kansas City Board of Trade

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1 P R O C E E D I N G S

2 (1:00 p.m.)

3 MR. SHILTS: All right, if everyone  
4 could take their seats and we'll get started here  
5 shortly.

6 All right, good afternoon and welcome  
7 everyone. My name is Rick Shilts and I'm the  
8 director of our Division of Market Oversight here  
9 at the CFTC. I'm pleased to open this public  
10 roundtable today to discuss issues related to the  
11 Commission's Notice of Proposed Rulemaking that  
12 calls for the collection of ownership, control and  
13 related information, for all trading accounts  
14 active on U.S. Futures exchanges. This is the  
15 third roundtable involving the CFTC staff this  
16 week. On Tuesday and Wednesday, as you may know,  
17 we held -- with our SEC counterparts --  
18 roundtables on issues related to implementation of  
19 Dodd- Frank, related to swap data, repositories,  
20 real-time reporting, and swap execution  
21 facilities. Those discussions were very valuable  
22 and I'm sure that today's roundtable also will be

1 very enlightening.

2           In that regard, the purpose of the  
3 roundtable today is for staff to gain a better  
4 understanding of the flow of data to be collected  
5 under our proposed rule. The information obtained  
6 today should assist the CFTC staff in implementing  
7 this proposed rule. I'd like to thank those  
8 attendees who are participating on our panel and  
9 those who are otherwise attending. I'd also like  
10 to thank the staff at the CFTC for their hard work  
11 in planning this roundtable.

12           For the record, I'd like to note that  
13 all statements and opinions that may be expressed  
14 -- and all questions asked by CFTC staff -- are  
15 those of the staff and do not necessarily  
16 represent the views of any commissioner or the  
17 Commission collectively.

18           Before we begin, I'd like to note some  
19 housekeeping items. I want to point out that this  
20 is not the only opportunity for interested parties  
21 to comment on the proposed rulemaking. The CFTC  
22 has a mailbox into which anyone may submit

1 comments and supporting materials. Submitted  
2 comments will be read by staff to help us as we  
3 implement this proposed rule. Please note that  
4 the comment period deadline is now October 7.  
5 Also you should know that this meeting is being  
6 recorded. The microphones are in front of you.  
7 Please press the button and you'll see the red  
8 light. That means you can talk -- and please  
9 speak directly into it. When you finish, please  
10 press the button to turn off the mic. And we  
11 would also ask that you refrain from putting any  
12 Blackberries or cell phones on the table as it  
13 typically causes interference with our audio  
14 system.

15           And now I would like to hand things off  
16 to Rachel Berdansky, who is the Deputy Director  
17 for Market Compliance in the Division of Market  
18 Oversight, to make some opening remarks and get us  
19 started. Again, thanks to all those participating  
20 here today. Rachel?

21           MS. BERDANSKY: Thank you. I'd like to  
22 echo Rick's gratitude to each of our panelists.

1 The Commission seeks to make this rulemaking a  
2 collaborative process and this roundtable -- or  
3 rather, rectangle table -- is being held in that  
4 spirit. Commenters should feel free to submit any  
5 additional comments arising from matters discussed  
6 at this meeting. Also, commenters may refer to a  
7 transcript of this meeting, which will be  
8 published on the Commission's website a few days  
9 after this meeting. If panelists wish to comment  
10 on the general policy of the proposed rule,  
11 including cost, or suggest alternatives to what  
12 the Commission has proposed, they may do so in the  
13 written comments.

14 As Rick mentioned, the purpose of this  
15 roundtable is for staff to gain a better  
16 understanding of the flow of data to be collected  
17 under the proposed rule. Because of the time  
18 constraints of this meeting, it is essential that  
19 we keep on topic and at least try to keep on time.  
20 The Commission believes that ownership and control  
21 information is fundamental to the effective  
22 regulation of modern markets. With the Ownership

1 and Control Report, also known as the OCR, the  
2 Commission seeks to enhance market transparency,  
3 increase trade practice and market surveillance  
4 capabilities, leverage existing surveillance  
5 systems and data, and facilitate the Commission's  
6 enforcement and economic research programs. The  
7 Commission's current plan is to have OCR data  
8 submitted to the Commission by exchanges, for all  
9 trading accounts active on an exchange. The  
10 Commission understands that the exchanges will  
11 need to adopt rules to collect OCR data from data  
12 sources such as FCMs, IBs, CTAs, and CPOs.

13 For each trading account, the OCR will  
14 include a trading account number, the names and  
15 address of the accounts owners and controllers,  
16 special account number -- if one has been assigned  
17 -- an indication of whether the account is a  
18 reportable account pursuant to large trader  
19 thresholds, and other relevant information. A  
20 major focus of today's meeting will be identifying  
21 who maintains each piece of OCR information and  
22 the flow of this data. On display is a

1 spreadsheet that lists each data point required by  
2 the proposed rule, we will use this to guide the  
3 first part of today's meeting.

4           This roundtable meeting is broken out  
5 into two general topic areas -- sources of OCR  
6 data and OCR implementation. We would like to  
7 begin by going through the list of data points,  
8 determine who maintains the data point and how the  
9 exchanges will obtain that data. Before we get  
10 started, let's go around the table and introduce  
11 ourselves. I'm then going to ask those people who  
12 submitted prepared statements or who have  
13 requested an opportunity to make a statement to do  
14 so. We ask that your statement not exceed five  
15 minutes. Also, I am aware that at least one  
16 panelist has prepared some PowerPoint slides  
17 relating to data flow. We will save some time --  
18 approximately 10 minutes at the end of the first  
19 panel -- for that presentation. At this point,  
20 why don't we go ahead and introduce ourselves.

21           MR. GOLLEY: My name is Jerry Golley.  
22 I'm the deputy director for systems and services

1 here at CFTC.

2 MR. ROGERS: I'm John Rogers. I'm the  
3 chief information officer at CFTC.

4 MR. NOWLIN: John Nowlin, Enterprise  
5 Architect at CFTC.

6 MR. FAY: Jim Fay in OITS.

7 MR. MORAN: Jim Moran, director of  
8 regulatory technology and strategy at CME Group.

9 MR. ANGUISH: Keith Anguish, associate  
10 director, Systems Development at CME Group.

11 MR. COOPER: I am Karl Cooper. I am the  
12 chief regulatory officer of NYSE Liffe U.S.

13 MR. BOOTH: Andy Booth. I'm the chief  
14 technology officer at NYSE Liffe U.S.

15 MR. OTT: Joe Ott, vice president of  
16 compliance, Kansas City Board of Trade.

17 MR. UMSTATTD: Dan Umstattd, director of  
18 operations, Kansas City Board of Trade.

19 MR. CUMMINGS: R.J. Cummings, vice  
20 president, product development, Intercontinental  
21 Exchange.

22 MR. LEGROS: Barry Legros, vice

1 president, application systems, ICE Features U.S.

2 MR. FABIAN: Mark Fabian, vice

3 president, market regulation, ICE Features U.S.

4 MS. SCHRAMM: Melinda Schramm, chairman,  
5 International Introducing Brokers Association.

6 MR. CRAPPLE: George Crapple,

7 co-chairman of Milburn Ridgefield. We're a CPO

8 and CTA. I'm also on the Board of the NFA and the  
9 FIA.

10 MR. TUBRIDY: Ray Tubridy, managing  
11 director of State Street.

12 MS. SUTPHEN: Leslie Sutphen, currently  
13 industry consultant, formerly with Newedge.

14 MR. KIRILENKO: Andrei Kirilenko, Office  
15 of the Chief Economist, CFTC.

16 MR. MARTINAITIS: Gary Martinaitis,  
17 associate deputy director of Market Information  
18 Group.

19 MR. ALVAREZ: Cody Alvarez, attorney  
20 advisor at DMO, CFTC.

21 MR. PUJOL: Sebastian Pujol, CFTC,  
22 Division of Market Oversight.

1 MS. BERDANSKY: I believe we also have  
2 Frank Franiak on the phone. Frank, do you want to  
3 introduce yourself? Okay. Why don't we just go  
4 ahead with our -- there will be, like I said,  
5 several people have submitted opening -- have  
6 opening statements or requests to make a  
7 statement. Leslie?

8 MS. SUTPHEN: Okay, thank you. Mr.  
9 Shilts and members of the Division of Market  
10 Oversight, I appreciate the opportunity to comment  
11 on the challenges of approving sources of  
12 ownership and control information, as well as  
13 discussing how best to implement protocols for  
14 receiving this information. My comments today  
15 will reflect my experience implementing electronic  
16 trading systems both as a managing director at  
17 Newedge Group and as an independent consultant  
18 over the past 13 years. They are a reflection of  
19 my own opinion and not that of Newedge Group or  
20 any other entity.

21 I applaud the efforts of the Commission  
22 to improve the identification of trading patterns

1 and control in today's complex markets. I will  
2 confine my comments today to issues surrounding  
3 identification of control, as I believe the other  
4 participants will have more to say on issues  
5 having to deal with ownership information. I  
6 specifically want to talk about the setting up of  
7 unique user IDs which may translate to a specific  
8 field on the execution trade feed, such as Tag 50  
9 or Sender Sub ID. In the way the futures industry  
10 operates today, the identification of specific  
11 controllers of trading and the associated  
12 information surrounding the controller is non-  
13 standardized, dispersed and not specific enough to  
14 enable precise identification of the controller.  
15 The non- standardization has to do with the nature  
16 of user IDs themselves. User IDs are generally  
17 freeform text, varying depending on the  
18 requirements of the trading platform being used,  
19 the exchange to which the trade is being routed or  
20 the identification requirements of the clearing or  
21 executing firm. The lack of standardization often  
22 complicates the setup of users across multiple

1 markets.

2           For example, on some exchanges it is  
3 necessary to use the exchange assigned user ID and  
4 on others, the user ID cannot be longer than six  
5 characters. In addition, some trading  
6 requirements such as sharing an order book among  
7 traders can result in multiple order router IDs  
8 being mapped with single exchange ID. Even if the  
9 industry could come up with an standardized  
10 protocol for the setting up of user IDs, there is  
11 currently no uniform approach to the assignment of  
12 IDs, the collection of information on the user,  
13 and the control over whether the ID is active or  
14 not. Generally, the FCM will delegate the control  
15 over who has access to the user ID to the client  
16 itself as practically the FCM cannot definitively  
17 identify who is logging in at a given moment.  
18 Although many FCMs do set up detailed and complex  
19 databases with the names of the traders behind the  
20 IDs and possible -- possibly some contact  
21 information. Maintaining these databases is a  
22 manual and laborious process with no easy way to

1 automate and maintain this information. In many  
2 cases, the information is located in disparate  
3 spreadsheets used by support desk personnel.

4           Finally, even if the industry could  
5 adopt agreed standard procedures for setting up  
6 user IDs and maintaining the data behind the user  
7 ID, the user ID itself is not sufficiently precise  
8 to correctly identify the controller in all cases.  
9 Generally, in the case of screen trading, there is  
10 a single unique ID for each screen. However, if  
11 the screen is used by a broker or fund manager,  
12 the user is placing trades for multiple  
13 controllers -- many of whom are not necessarily  
14 identified by a unique account number or user ID.

15           In the case of automated trading, there  
16 may be a single user ID for multiple algorithms or  
17 strategies or no unique user ID because all  
18 traffic goes through a single FIX session. The  
19 exchanges generally require additional  
20 identification information beside the user ID to  
21 be passed -- for example, in Tag 50, in order to  
22 facilitate identification of a specific trading

1 strategy or trader. However, at this time it is  
2 not always easy to populate this information  
3 technologically depending on the architecture of  
4 the trading platform. And the FCM does not always  
5 know that multiple algorithms are using the same  
6 identifier, making it difficult for both the  
7 exchange and the FCM to corroborate this  
8 information -- this identification.

9 I believe the industry can continue to  
10 work together to come up with a more standardized  
11 approach to setting up user IDs, codifying and  
12 collecting information, and agreeing with  
13 exchanges in how this information can be passed.  
14 However, it is important to note that migrating to  
15 this new approach will require fundamental  
16 re-architecture of user setups across the  
17 industry, something which typically can take  
18 several years to accomplish and at great cost.  
19 Thank you.

20 MS. BERDANSKY: Thank you. Melinda?

21 MS. SCHRAMM: Thank you. Unlike Leslie,  
22 I've reached the age where I have to take my

1 glasses off to read -- I'm Melinda Schramm,  
2 Chairman of the Board of Directors of the NIBA.  
3 Thank you for including us today.

4           Founded in 1991, the National  
5 Introducing Brokers Association, or the NIBA, is a  
6 not for profit organization which represents  
7 Introducing Brokers, IBs, and Commodity Trading  
8 Advisors, CTAs. Our membership includes  
9 approximately 350 registered entities. While our  
10 members trade in all markets, they primarily  
11 transact business in the retail sector of the  
12 futures and options industry. Our statements and  
13 appearance today are representative of our IB  
14 membership only. The NIBA's mission is to provide  
15 a forum in which IBs can learn, network, and have  
16 a voice in the many developing issues affecting  
17 the daily activities in their offices.

18           Our goal is to support the IB community  
19 so that they can better serve its customers and  
20 grow the revenues of their businesses. NIBA's  
21 members typically have three to twelve sales,  
22 research, and support staff, in total, in their

1 office. In fact, many IB registrants still have  
2 one or two person offices. Each office may serve  
3 as 50 to 400 customers, which could be solicited  
4 face-to-face or through web-based interactions.  
5 The majority of customers who trade through an IB  
6 office open individual accounts with an initial  
7 deposit of \$30,000 or less. About one-third of  
8 NIBA's members are licensed as both IB and CTA, or  
9 they conduct other financial or futures-related  
10 business such as securities or insurance programs.

11           The typical IB member nets less than a  
12 quarter million dollars per year in personal  
13 income. NIBA acknowledges that it's in the best  
14 interest of all American business to know who  
15 their customers are, and how, and by whom certain  
16 decisions are being made. We're ready to work and  
17 are working to educate our members in the upcoming  
18 NFA amendments to the Know Your Customer Rules and  
19 the Associated Risk Disclosure Statements. By all  
20 standards, NIBA's members and, indeed, probably  
21 all IBs, are small businesses. They're typically  
22 owner operated with little or no clerical support.

1           As typically -- as correctly pointed out  
2     in the proposal, much of the information required  
3     by the OCR -- such as the customer's name and the  
4     date of birth -- is already obtained by the IB  
5     office which opens the account, in order to comply  
6     with the anti-money laundering regulations. And  
7     that information is being maintained by both the  
8     IB and its clearing FCM. Generally, IBs do not  
9     transact business for funds, pools, or other large  
10    accounts which may require any entity other than  
11    the individual account owner to be designated as  
12    the account controller. To the extent that they  
13    do, the Commission Rule 1.37 controls IBs --  
14    particularly Guaranteed Introducing IBs or GIBs --  
15    and work hand-in-hand with their clearing FCMs.

16           These FCMs -- their root data sources --  
17    are already requiring and maintaining most of the  
18    OCR information proposed. While NIBA agrees with  
19    the FIA and others that a single uniform protocol  
20    for reporting should be adopted, we do not agree  
21    that this reporting should be done at the IB  
22    level. Weekly reporting would in most cases be

1 unnecessary. As we have previously pointed out,  
2 FCMs are already collecting all the information  
3 necessary to open an account on their current  
4 account forms.

5           Additionally, IBs should not be required  
6 to submit any such reports directly to the  
7 Commission. In fact, in the case of GIBs in  
8 particular, all such communications with any  
9 reporting agency -- such as the NFA -- is nearly  
10 always required by the clearing FCM to be  
11 submitted to or through that FCM in order that the  
12 FCM can comply with its supervisory duties. Given  
13 these realities of the IB community, we believe  
14 that the majority of our members are small  
15 entities, as that term was defined in the  
16 Regulatory Flexibility Act. In this context, we  
17 look forward to discussing the impact of this  
18 proposed rule and sharing our perspective.

19           Thank you for the opportunity to  
20 participate in this meeting. The NIBA is ready to  
21 discuss any issues regarding this proposal and any  
22 that you may have in the future regarding the IB

1 community in general. Thank you for the  
2 opportunity.

3 MS. BERDANSKY: Thank you, Melinda.  
4 Joe?

5 MR. OTT: The Kansas City Board of Trade  
6 would like to thank the Commission for hosting the  
7 public roundtable today to discuss the Ownership  
8 and Control Report currently being proposed. We  
9 feel it is paramount to assume an industry-wide  
10 committee, including the CFTC, to discuss the  
11 issues of how to implement the OCR in a manner  
12 that will both satisfy the CFTC's regulatory needs  
13 and as well as to avoid being an undue burden to  
14 the root data sources in designated contract  
15 markets.

16 KCBT agrees that the account ownership  
17 and control information report will enhance market  
18 transparency. We also agree it will increase the  
19 Commission's trade practice and market  
20 surveillance capabilities as well as leveraging  
21 existing surveillance systems and data and  
22 facilitating the Commission's enforcement research

1 programs. The unprecedented changes recently seen  
2 in the futures industry are currently as a result  
3 of the shift in the style of trading -- from pit  
4 trading to electronic trading -- has necessitated  
5 many changes in the manner in which we regulate  
6 our markets.

7           The anonymity of the market participants  
8 in electronic trading has made it difficult to  
9 identify traders and trading accounts quickly. It  
10 has been our experience that some clearing members  
11 struggle with identifying the user and/or account  
12 number for a particular trade unless other  
13 information is given to them -- for example, a  
14 session ID, a firm ID, or a trader ID. Market  
15 transparency is a crucial element of any market  
16 surveillance system. The integration of large  
17 trader and trade registered data into the OCR will  
18 exponentially increase market transparency. Once  
19 the implementation of the OCR takes place, both  
20 the CFTC, as well as the exchange compliance  
21 staffs, will benefit greatly from the wealth of  
22 information at their disposal regarding the

1 identity of market participants and the  
2 relationships that exist among them.

3           However, KCBT still believes that the  
4 most efficient way for the information to be  
5 submitted to the CFTC is for the FCMs and clearing  
6 members to submit the information directly just as  
7 they currently do with KCBT large trader  
8 reporting. The root data sources are in  
9 possession of the specific data points being  
10 proposed. Therefore, it makes no sense for the  
11 root data sources to report this information  
12 directly to the Commission. Of the specific data  
13 points required by the proposed OCR, the only data  
14 point KCBT currently has in our possession is the  
15 trading account number. The CFTC is already in  
16 possession of many of the specific data points  
17 required by the OCR through large trader  
18 information -- namely, the CFTC Form 102,  
19 Identification of Special Accounts, as well as  
20 exchange trade registrant information. Therefore,  
21 the CFTC is in a better position than the KCBT to  
22 integrate these existing resources and supplement

1    them with ownership control information for all  
2    active trading accounts.  It seems unnecessary to  
3    put a third party in the middle to submit the  
4    information to the Commission.

5            Requiring each contract market to report  
6    the information for every active account would  
7    result in duplication, as the same account number  
8    may trade in similar commodities across multiple  
9    exchanges.  As an example, the same account number  
10   may trade KC, Chicago and Minneapolis Wheat.  
11   Therefore, Kansas City, CME and Minneapolis would  
12   all be reporting the information for the same  
13   account.  In addition, there are currently certain  
14   KCBT clearing members, for open interest reporting  
15   purposes -- that have their home office in either  
16   Chicago or New York and report their positions to  
17   their Kansas City branch office -- who in turn  
18   reports to the clearing corporation.  If this same  
19   logic was used for the OCR, then the information  
20   would have to be reported three times -- from the  
21   home office to the branch office to the Kansas  
22   City Board of Trade and on to the Commission.

1           KCBT agrees that uniform reporting  
2 protocols are an absolute necessity. The CFTC has  
3 standardized the content and format of all trade  
4 registered services submitted to them which are  
5 now required to be fixed ML trade capture reports.  
6 Therefore, it would seem logical that the  
7 Commission and root data sources could develop a  
8 similar industry-wide standard for the OCR. It  
9 would seem to make the most sense to have the CFTC  
10 and the root data sources come up with an  
11 industry-wide reporting standard directly to the  
12 Commission, versus all the exchanges having to  
13 build a system for their root data sources to  
14 report in to. The CFTC could use their existing  
15 large trader reporting system to accomplish the  
16 goals of the OCR by requiring that each root data  
17 source report the required information for all  
18 active accounts.

19           Regarding the specific data points  
20 required by the OCR, KCBT questions whether the  
21 date of birth for each active account is a  
22 necessary data point to collect. Neither current

1 CFTC regulations, nor NFA rules and regulations,  
2 require an FCM to collect the customer's date of  
3 birth. Currently, NFA Compliance Rule 2-30 only  
4 requires an FCM recording of an approximate age of  
5 the customer. Effective January 3 of 2011, NFA  
6 rules will require the FCM to record an  
7 approximate age or date of birth. It is the  
8 opinion of the Kansas City Board of Trade that  
9 requiring a first, middle and last name, as well  
10 as the address of their primary residence, should  
11 be sufficient to achieve a unique identification  
12 for each active account.

13           The OCR information will be difficult to  
14 obtain from omnibus accounts because the  
15 underlying accounts are not carried on the  
16 clearing member's books. Furthermore, certain  
17 omnibus accounts may not be members, or may be  
18 nonmembers of the Kansas City Board of Trade,  
19 which raises a question as to the regulatory  
20 authority the KCBT would have over them. The CFTC  
21 would have regulatory authority over all FCMS and  
22 hence another reason why the root data sources

1 should report directly to the Commission.

2           We are currently not in a position to  
3 state with any certainty what the cost would be  
4 for the Exchange to provide the OCR until further  
5 details are forthcoming regarding an  
6 industry-approved standard for the OCR's content,  
7 format, and the time and manner of its  
8 transmission. Once more details become available,  
9 we will be in a better position to estimate the  
10 timeframe necessary for completion and the costs  
11 associated with such. However, it is clear that  
12 each contract market will incur significant  
13 service storage and programming costs to ensure  
14 they have the ability to store the information  
15 received if the CFTC requires each contract market  
16 to receive, collate, and correlate the data into a  
17 single record for active accounts in our market  
18 and then to transmit the information to the CFTC.  
19 Thus, you would have programming and service  
20 storage costs at each level, whereas if the  
21 information was submitted by each data source  
22 directly to the CFTC, you could eliminate one of

1 these layers of costs.

2 It seems the best method for reporting  
3 the information would be to be submitted by the  
4 root data sources directly to the CFTC. The  
5 Kansas City Board of Trade appreciates the  
6 opportunity to participate in the political  
7 roundtable today.

8 Thank you.

9 MS. BERDANSKY: Thanks, Joe. Jim?

10 MR. MORAN: Once again, I'm Jim Moran  
11 from CME Market Regulation. Again we thank the  
12 Commission for having this roundtable and for  
13 giving us an opportunity to speak here.

14 You know, CME Group operates for DCM,  
15 CME, CBOT, NYMEX, and COMEX, and we recognize the  
16 need for the Commission to have their annular  
17 account identification information and we applaud  
18 the Commission in their efforts to require this  
19 information in an automated and standardized way  
20 across clearing firms. CME Group Market  
21 Regulation already maintains its own account  
22 ownership databases and it routinely uses that in

1 the performance of our regulatory duties. We have  
2 made substantial advancements on these databases  
3 in recent years and we believe that these types of  
4 advancements make us more productive.

5 CME believes that automating the account  
6 ownership data submission and eliminating the  
7 manual processes and hard copy methods currently  
8 in place is overdue and very necessary. CME has a  
9 stake in the project and a commitment to help make  
10 it successful if we can. In its current form, we  
11 are concerned that the Commission's proposal  
12 requires certain data elements that clearing firms  
13 do not have or which cannot be obtained without a  
14 massive re-documentation project of hundreds of  
15 thousands of customer accounts. In some  
16 instances, the clearing firm may have the data,  
17 but it is not in the databases that would be used  
18 to provide this information. We also believe that  
19 some of the data elements sought by the Commission  
20 have limited regulatory value and that this  
21 proposal should be modified to be less expensive  
22 for the industry, quicker to create and market --

1 bring to market -- and that it should eliminate  
2 redundant reporting, all while still obtaining the  
3 desired regulatory objectives. The redundancy  
4 currently exists with respect to a substantial  
5 overlap of information required in CFTC Form 102,  
6 which is used in the large trader system.

7 We believe the Commission should take  
8 this opportunity to modernize and automate the  
9 core information required under Form 102, rather  
10 than require that the industry engage in two  
11 separate, but highly redundant, account  
12 identification processes.

13 I'd like to briefly summarize some  
14 recommended changes to -- other recommended  
15 changes to the OCR proposal that would be  
16 necessary for a successful project that would  
17 minimize disruption to the industry, while  
18 hopefully not using up all the resources that will  
19 be necessary for other changes anticipated by the  
20 Dodd-Frank Legislation. We also believe that this  
21 proposal would entail a lot of collaborative  
22 effort between the exchanges, the clearing firms,

1 and the CFTC, and we think that it is something  
2 that can work in a practical and beneficial  
3 manner.

4           Specifically, we believe that the  
5 reporting should be done by the carrying clearing  
6 firm and not by the executing firms, or the IBs.  
7 It's at the carrying broker where the ownership of  
8 the trade is established and we believe that  
9 that's the most logical place where this reporting  
10 is done from. Also, we believe that omnibus  
11 accounts have long existed in the futures industry  
12 and should not be functionally banned by requiring  
13 a carrying firm to obtain all of the end client  
14 information for accounts within the non-disclosed  
15 omnibus. Instead, omnibus accounts should be  
16 identified as such in the OCR and regulators can  
17 request ownership or control information directly  
18 or through the clearing firm on an as needed  
19 basis.

20           Third, with regards to trading control,  
21 there's a statement in the OCR proposal that  
22 trading authority is sufficient to qualify as

1 controller. This is not consistent with the  
2 conventions for reporting control in large trader  
3 position reporting and the CFTC should maintain  
4 that the existing definition of trading control --  
5 which is more of a legal control pursuant to a  
6 power of attorney or a situation where independent  
7 account controllers are not aggregated for  
8 position limits -- should be held and applied to  
9 the OCR as well. As far as data, there's 28 data  
10 items on the spreadsheet in front of us. We  
11 believe that about 14 of those directly overlap  
12 with the CFTC Form 102. And perhaps 10 or 12 of  
13 those -- the data already exists in the firm's  
14 system, but, you know, some things in terms of  
15 reporting, would have to be -- would require a  
16 system change in order to implement. The  
17 remaining elements, we believe, are either not  
18 necessary or have limited regulatory value. These  
19 items include the fields for owner and controller  
20 birthdates, fields for the NFA ID number, and  
21 fields relating to the dates that various reports  
22 are made.

1           We believe that simply getting the  
2 report should have a date on it and we don't need  
3 a separate field to record dates. Also, the  
4 automated system identifier that is proposed is  
5 really not something that is associated with an  
6 account. An account can have, you know, a lot of  
7 different parties doing different types of trading  
8 and it isn't really the best place -- it's not the  
9 best place to identify when an automated system is  
10 used. Also, we believe that there should be some  
11 kind of threshold of volume. Many customers are  
12 small and while we still aren't sure exactly what  
13 that threshold should be, you know, customers that  
14 trade very small -- and just occasionally, in  
15 small quantities -- there are so many of them  
16 that, you know, having the flow of that data in  
17 the database has the potential of just cluttering  
18 up the information and actually making this a less  
19 efficient process.

20           So CME believes that, you know, we  
21 should all come to the table and begin discussing  
22 how we can make this proposal work and do it in a

1 way that, you know, is good for the markets, is  
2 good for transparency, but yet does not impose an  
3 undue burden on our participants or our firms.

4 Thank you.

5 MS. BERDANSKY: Thank you, Jim. I  
6 believe that we have one more panelist who has  
7 joined us via telephone, Frank Franiak. Frank, do  
8 you want to introduce yourself, please?

9 MR. FRANIAK: Yeah, hello. This is  
10 Frank Franiak. I'm the president of Woodfield  
11 Fund Administration. We are a fund administrator  
12 that handles hedge funds as well as futures pools.  
13 I have no initial statement to provide.

14 MS. BERDANSKY: Thank you. At this  
15 time, I'm going to turn it over to --

16 MR. FABIAN: Rachel, if you don't mind,  
17 I'd like to make a short statement on behalf of  
18 ICE. I'll keep it short -- promise. Is that  
19 okay?

20 Again, I'd like to thank DMO and the  
21 Commission for organizing this roundtable,  
22 inviting ICE to it to express our opinions and

1 thoughts on the OCR collection proposal. This is  
2 an important topic and has a significant impact on  
3 ICE as well as the other entities sitting around  
4 this table as well as the firms that are going to  
5 be supplying the data to us. As we expressed in  
6 our written comments that we submitted last year  
7 in answer to the ANPR -- and will likely reiterate  
8 some of those in a further comment letter in  
9 response to the most recent rulemaking proposal --  
10 we understand and agree with the initiative to  
11 collect this information. We think it will be  
12 very useful in enhancing our systems and our  
13 ability to do our surveillance in trade practice  
14 reviews. It will definitely make it more  
15 efficient. It will take something that we do  
16 manually now -- in terms of getting a lot of this  
17 information -- and make it a more automated and  
18 quicker process, having it right at our fingertips  
19 as opposed to having to request it manually.

20 At the same time, we recognize that the  
21 proposed OCR initiative will demand a  
22 substantially significant amount of time and

1 resources to develop and implement -- not only for  
2 those reporting entities who may be involved, but  
3 also for anyone who is supplying the root  
4 information. As noted by the Commission, the  
5 successful implementation of this proposal is  
6 going to require effective communication and  
7 coordination between all parties involved,  
8 including the Commission, so that we achieve the  
9 desired results. However, at the same time, we  
10 need to work together to determine the most  
11 effective and efficient means by which to collect  
12 that OCR data.

13           And in the interest of keeping time  
14 short, I would like to just echo some thoughts  
15 that we had made in our original comment letter,  
16 and that has been made by the Kansas City Board of  
17 Trade here today, which are in regard to a more  
18 efficient process -- we believe -- of having the  
19 reporting -- excuse me -- the root source data  
20 providers report the information directly to the  
21 CFTC. It's a one stop shopping approach, as  
22 opposed to then reporting to multiple different

1 reporting entities. It also alleviates potential  
2 issues that may arise -- as Joe alluded to --  
3 where firms may report the same account to  
4 multiple exchanges and, therefore, each exchange  
5 has different -- has rules that require the  
6 submission of this information in the event that a  
7 firm does not properly report some piece of that  
8 data, and some kind of disciplinary action is  
9 taken.

10 We -- you know -- the question becomes,  
11 okay, they report to multiple exchanges, whose  
12 jurisdiction are they under? Who takes  
13 disciplinary action? Do all the exchanges they  
14 report to take a disciplinary action or some kind  
15 of corrective action? So without going into any  
16 further detail, I again would support a lot of the  
17 reasons that Mr. Ott from the Kansas City Board of  
18 Trade enumerated, with respect to having the  
19 information flow directly to the CFTC into a  
20 common repository which then can be either  
21 distributed to the various exchanges that need it,  
22 or the various exchanges can download the

1 information -- depending on the accounts that are  
2 active on their exchange.

3           In reference to which accounts should  
4 report, obviously the Commission has said that  
5 they would like to see more information than just  
6 those that are large traders and they alluded to  
7 wanting the community or the user group here today  
8 to define for them some other parameter that would  
9 capture most of the active trading. And we would  
10 agree that some kind of a parameter that is linked  
11 to volume, and/or frequency of trading, that would  
12 identify the most active accounts -- not  
13 necessarily by large trader status, but by  
14 frequency and volume of trading -- that are active  
15 on an exchange and in the markets, as opposed to  
16 trying to collect all the information from every  
17 account that is active because there are so many  
18 small accounts that are active. It may just be  
19 much more burdensome than trying to create a  
20 minimum level of reporting.

21           So, like I said, I was going to keep it  
22 short. And we look forward to addressing any

1 questions the DML may have and we look forward to  
2 raising other questions and comments that we may  
3 have, as well. Thank you.

4 MS. BERDANSKY: Thank you. At this  
5 time, I am going to turn it over to Sebastian to  
6 start Panel One. Sebastian?

7 MR. PUJOL: Thanks, Rachel. And thanks  
8 to everyone for coming. If you guys could sort of  
9 turn your attention to the screens that are around  
10 you, we're going to start with the chart that's  
11 represented here. What we're trying to do is --  
12 we have a few specific goals with this, but  
13 fundamentally we want to understand where the data  
14 resides and if it's not in places where it needs  
15 to ultimately be, what the obstacles are to  
16 getting there -- whether they be practical, or  
17 legal, or so forth. With that in mind, there's  
18 four specific things that we want to make sure we  
19 get out of this chart as we complete it. And by  
20 the way, this includes every data point that was  
21 proposed in the OCR.

22 The first thing we want to ask is,

1 obviously, who possesses each of these data  
2 points? The second question is, if you possess  
3 it, are you an initial holder of the data or is it  
4 something that is sent to you in the regular  
5 course of business by someone else? The third  
6 question is, for the data that you possess, what  
7 do you routinely share? And I'm not sure this  
8 question will be so applicable for DCMs, but for  
9 downstream sources -- or upstream sources for  
10 DCMs. And for the things that you don't routinely  
11 share, what's the reason? Is it that there  
12 typically hasn't been a need? That there is some  
13 restriction around -- maybe the information is  
14 protected by the privacy law of some jurisdiction  
15 that prohibits you from sharing it? Is it a  
16 competitive concern? You wouldn't want someone  
17 else to know this information. Those are the  
18 sorts of questions we'd like to have answered.

19           Also, for some of these data points, I  
20 think that maybe the answer would be that most of  
21 the time it's this, but here are the exceptions.  
22 I think we'd like to note, at least on the first

1 pass, that those exceptions exist, but save the  
2 sort of detailed discussion of what the exception  
3 is until after we've at least understood what the  
4 norm is.

5           Finally, there are 28 data points here,  
6 but I suspect that many of them are related. So  
7 if -- as we go down them -- if folks want to group  
8 them together and say we can discuss these two or  
9 three as a single set, that's fine as well. So,  
10 with that being said, we'll just go ahead and get  
11 started with the first point -- the trading  
12 account number. And the trading account number we  
13 refer to here is what we receive from the DCMs in  
14 the trade capture reports. And I'm presuming that  
15 -- well, I won't presume anything -- I will let  
16 you guys sort of let us know who is in possession  
17 of that account number.

18           MR. COOPER: Sebastian, thanks. I just  
19 -- before we even get started -- I kind of wonder  
20 about the form. You have one column for FCM and I  
21 would think that maybe we need to be thinking  
22 about. You know, clearing members, and

1 non-clearing members, and members of exchanges,  
2 and nonmembers of exchanges. So we certainly have  
3 business that comes to NYSE Liffe U.S. that comes  
4 from a nonmember, non-clearing firm, that's, you  
5 know, then passed to an executing broker and is  
6 cleared at a third firm potentially, so --

7 MR. PUJOL: Absolutely.

8 MR. COOPER: If so --

9 MR. PUJOL: If we need to be more  
10 granular, we can do that.

11 MR. COOPER: -- quite frankly, the -- it  
12 all depends on what you're trying to get. If  
13 you're trying to get that business is going to  
14 come from a nonmember, non-clearing firm, the  
15 identity of the customer behind that -- assuming  
16 they don't have an omnibus account for yet another  
17 nonmember, non-clearing firm, or foreign IB, you  
18 know, it's -- what we're requiring here is it  
19 would be some sort of cascade of information from  
20 the nonmember -- non-exchange member -- firms to  
21 exchange member firms to, possibly, clearing  
22 member firms to exchanges, and then to you.

1 MR. PUJOL: So, with -- I mean we can  
2 certainly -- your answers can be more granular.  
3 But with that in mind, let's still try to go down  
4 sort of data point by data point and just account  
5 for each one of them. And we can start with  
6 number one. I mean certainly --

7 MR. FABIAN: You just want us to chime  
8 in and --

9 MR. PUJOL: Yeah.

10 MR. FABIAN: Okay.

11 MR. PUJOL: Absolutely. Yeah.

12 MR. FABIAN: Obviously, from the DCM  
13 perspective, there's going to be a trading account  
14 number in our cleared trade registers which we  
15 forward along to the Commission on a regular  
16 basis. So that's obviously exists on the DCM.

17 MR. PUJOL: And I'll ask one follow up  
18 on that. I heard some -- in the opening  
19 statements -- some suggestions that numbers could  
20 come from different places -- you know, that  
21 information could come from somewhere other than  
22 the DCM. I think that one issue that we have had

1 here at different times is that -- or the reason  
2 that we are sort of looking for this trading  
3 account number from the DCM -- is we want to make  
4 sure we can synchronize the data we get on the  
5 Trade Capture Report with the data that comes from  
6 through an OCR Report. So, you know, we don't  
7 need to address that in detail right now, but just  
8 so you are aware -- for this to be useful to us --  
9 we have to be able to synchronize it to other data  
10 sources that are already coming in the building.  
11 That's why that's one of the reasons why we sort  
12 of were looking to the DCMs as a natural focus for  
13 this.

14 So let's move on to, I think, a related  
15 set of accounts -- the names, dates of birth,  
16 addresses -- I think we can discuss those  
17 together. And again, to address some of the  
18 comments, the reason that we have gone to this  
19 level of detail is because we want to assure a  
20 unique identification. We don't want to worry  
21 about two John Smiths or, is John Smith the same  
22 as John S. Smith?

1 MS. SUTPHEN: You know, before you move  
2 on, I think it's important to note that the  
3 trading account number really resides at the FCM.  
4 The data -- the freeform data gets passed to the  
5 DCM, obviously, but the account is created and  
6 held -- and the useful information surrounding the  
7 account is at the FCM. So I think it's -- you  
8 know, I don't think we should just say the DCM is  
9 the repository for that data.

10 MR. FABIN: I agree with that. I just  
11 didn't want to speak on behalf of the FCMs since  
12 I'm with the DCO.

13 SPEAKER: And, Leslie, IBs would agree  
14 with that also. Thank you.

15 MR. PUJOL: And by the way, we -- you  
16 know -- we don't need to be overly formalistic. I  
17 mean, whenever somebody wants to speak up, speak  
18 up. I think that would be more useful.

19 MR. MARTINAITIS: Feel free to disagree  
20 with any typing that doesn't capture any ideas  
21 that are put out here. Thank you.

22 SPEAKER: All right. So do we want to

1 address the names, dates of birth, addresses?

2 SPEAKER: If I could, one thing I want  
3 to point out about names -- first name, middle  
4 name, last name. I think that for the FCM -- they  
5 have this information in their systems -- first  
6 and last name. Middle name is something that most  
7 systems don't capture today. And if you think  
8 about all the different applications that you fill  
9 out in your personal life, the way middle name is  
10 handled is very random. And so, what is a concern  
11 is the middle name.

12 MR. PUJOL: Just to follow up on  
13 something that Carl said. As we talk about FCM,  
14 if, in your answers, it's appropriate to  
15 distinguish clearing FCM or nonmember FCM or, you  
16 know, more granular, then please do so.

17 MR. OTT: Sebastian, I'd like to point  
18 out again that I totally agree that there could be  
19 more than one John Smith, but to me when you're  
20 combining the name with the address -- to me  
21 you're going to have something unique right there.  
22 I'd be very surprised to see John Smith at the

1 same -- two of the same addresses. Therefore I'll  
2 say it again, I feel like the date of birth is not  
3 necessary if you're just trying to get a  
4 uniqueness out of this.

5 MS. SUTPHEN: And to enhance that, I  
6 don't believe the date of birth is collected in  
7 all cases at the FCM level. It's probably scanned  
8 when the account is opened, maybe on a driver's  
9 license or a passport, or something like that, but  
10 it's not actually coded into any kind of database,  
11 generally. Maybe you -- as was said earlier -- we  
12 estimate the age, but it's not typical practice to  
13 record the date of birth in our systems.

14 MR. MARTINAITIS: You mention about  
15 copying a license or so forth -- that raises an  
16 interesting point as well. I think it would be  
17 nice to distinguish between things that might be  
18 captured at some level, but that are not typically  
19 digitized and, therefore, you can say the data  
20 exists, but sending it into a report would be a  
21 whole different level of effort. So, for date of  
22 birth, is -- are you saying that that it probably

1 --

2 MS. SUTPHEN: That would generally be a  
3 document of some sort. It would not be in a  
4 digital form.

5 MR. MARTINAITIS: Okay. But again, I  
6 don't think it's a requirement at this point. So  
7 it may not be captured at all.

8 MR. FABIAN: I think we've kind of  
9 discussed this internally, and we've heard that in  
10 Canada it is illegal to request the date of birth  
11 from a citizen in Canada. You can provide it at  
12 will, but it is illegal to request it. So if  
13 there are Canadian accounts that are active on our  
14 exchanges that would be required to post that  
15 information, I think it may be an issue. I don't  
16 know if it's being requested by a Federal entity  
17 in the U.S., maybe it's not the same issue. But  
18 if it's being requested -- I believe is being  
19 requested by a firm, it is illegal to request that  
20 information. You can confirm that, but I just  
21 thought I would share that just so people would be  
22 aware that there is potentially an issue with that

1 in Canada.

2 MR. PUJOL: When we talk about the firms  
3 here, are we -- is it always the clearing firm we  
4 can safely assume who will have this information,  
5 or --

6 MS. SUTPHEN: Well, ultimately the  
7 account ownership information is with the clearing  
8 firm. Often the executing firm doesn't know the  
9 ownership of the account, so -- yeah, your  
10 clearing firm, and even what ends up being on the  
11 trade register is really linked to what's -- the  
12 information at the clearing firm, I would say. So  
13 that distinction is really -- I mean, it's the  
14 clearing firm that is really the one that opens  
15 that particular type of account.

16 MR. PUJOL: Is that the case or is that  
17 not the case for trading account number?

18 MS. SCHRAMM: Speaking for introducing  
19 brokers, they often use a driving license or a  
20 passport in order to satisfy the need to know  
21 their customer. But if it isn't a requirement on  
22 the account form that they're filling out, or

1 helping the customer to fill out, then they will  
2 not require any further documentation or recording  
3 of that information.

4 MR. TUBRIDY: Sebastian, to answer your  
5 question, yes, trading account would be with the  
6 clearing member.

7 MR. PUJOL: Thank you. Does anyone have  
8 anything further they want to say just in terms of  
9 who possesses those three data points -- those  
10 four? So let's move on now to number 6, 7, 8.  
11 Here, in this case, we're talking about an owner  
12 that is not a natural person. It's some sort of a  
13 legal entity.

14 SPEAKER: Before we move on, NFA ID  
15 number. That is --

16 MR. PUJOL: Oh, yes. Okay. Thank you.

17 SPEAKER: That is information that is  
18 currently not captured by the clearing member.  
19 It's available, but it's not recorded in any  
20 system.

21 MR. PUJOL: Thank you. All right, now  
22 let's move onto 6, 7 and 8. These are owners who

1 are not natural persons.

2 MS. SUTPHEN: Sebastian, as a point of  
3 clarification, very often not natural person  
4 owners are behind an omnibus account of some sort.  
5 So if they're opening their account directly with  
6 the clearing firm and on the books and records of  
7 the clearing firm, then this information would be  
8 captured, but it would not necessarily be captured  
9 if they are dealing through an omnibus account of  
10 a foreign broker.

11 MR. PUJOL: All right. So that's a fair  
12 point. Thank you. Let's sort of leave out for  
13 now the omnibus account situation. Is this --  
14 again this is information residing at the clearing  
15 firm level?

16 MS. SUTPHEN: It's at the clearing firm  
17 level.

18 MR. COOPER: Are you referring  
19 (interruption) point and time are you referring  
20 to?

21 MR. PUJOL: You know, I'm not sure by --  
22 I would say at any moment in time. I don't know

1 if that's a -- you know --

2 MR. COOPER: I mean, some of this data  
3 flows into a DCM, you know, for a larger trader.  
4 Or we also, you know, identify accounts for  
5 various other reasons. Member accounts are all  
6 identified at the CME. You know, sometimes -- you  
7 know -- because we see some trading activity and  
8 we want to know who it is -- once we identify an  
9 account, we put that in our databases. And we do  
10 that routinely, so -- you know, the DCM, you know,  
11 may have some of this data at various points, but  
12 that doesn't mean we have it for every account or  
13 we have it at every point in the cycle.

14 MR. PUJOL: You're describing it in sort  
15 of information that you collect as needed, or you  
16 might collect it pursuant to some various programs  
17 you have going on, but it's not for every account.

18 MR. COOPER: Correct.

19 MR. PUJOL: So, if we move on a little  
20 bit further down. At this point, I think we can  
21 assume the NFA ID answer is the same as it was for  
22 natural persons, correct?

1 SPEAKER: Yes.

2 MR. PUJOL: So --

3 MR. MARTINAITIS: I'm not sure if we  
4 covered this. The -- you were talking about when  
5 this information -- I'm sorry. Jim, you were  
6 talking about when this information is accurate.  
7 Whether, you know, at the initial opening of the  
8 account -- is the FCM the party -- the clearing  
9 FCM -- do they have the non-natural person name,  
10 business address, ID number? Is it maintained so  
11 that if things change, it's updated? Do they  
12 maintain these updates?

13 SPEAKER: Yes.

14 MS. SUTPHEN: Yes, to the best of their  
15 ability. Yes.

16 MR. PUJOL: In those cases, is it being  
17 fed to them? I mean, we've said clearing firm in  
18 a few cases here, but is it -- are they getting it  
19 from somewhere else?

20 MS. SUTPHEN: Well, they have to get it  
21 from the customer. I mean they have a fiduciary  
22 responsibility to keep that information -- and a

1 regulatory responsibility to keep that information  
2 up to date. So, you know, it's part of KYC to  
3 make sure that you're having a constant contact  
4 with your customer and validating that  
5 information.

6 MR. MARTINAITIS: So there's not a third  
7 party in between? It's directly customer to  
8 clearing member?

9 MS. SUTPHEN: For ownership?

10 MR. MARTINAITIS: Yes.

11 MS. SUTPHEN: It's generally between the  
12 clearing firm and the owner.

13 SPEAKER: Okay. Thank you.

14 MR. TUBRIDY: Yes, just maybe said a  
15 different way, the process to open an account and  
16 to register an owner in the FCM system is the same  
17 whether it's a natural person or a non-natural  
18 person. And so you record all the same data  
19 points. The requirements are slightly different,  
20 but the main data points you do record --  
21 especially these.

22 MR. COOPER: And if you're joint BD

1 under SEC rules, you have a duty under  
2 17-A-3-A-16, or something, to refresh that  
3 information every 36 months so. That's assuming  
4 that your future systems and security systems all  
5 feed each -- feed the same database.

6 MR. PUJOL: Let's move on to the account  
7 controller questions. And I understand that, Jim,  
8 you raised an issue around whether our definition  
9 of account controller is appropriate? But -- so  
10 let's -- I'm not sure if we can answer this  
11 question with -- sort of, leaving the exact  
12 definition aside for a second -- but as we've  
13 defined controller in our documentation and in our  
14 proposal, at least, can we discuss who has that  
15 data?

16 MS. SUTPHEN: If the data exists  
17 anywhere, it would exist at either the executing  
18 firm or the clearing firm -- at the FCM, I would  
19 say. But I think here is where from -- you know,  
20 from 9 until number 13 it's where that data would  
21 be the most spotty right now. Where that would  
22 not be necessarily collected systematically if

1 they're not a large trader reporting and, if we  
2 did collect it, it would not necessarily include  
3 all this information. And it would not  
4 necessarily be on the trade register.

5 MS. BERDANSKY: Leslie, you stated, you  
6 know, if you did collect it, what would be the  
7 instances when you would be collecting it?

8 MS. SUTPHEN: It has to do with user IDs  
9 and trying to map them to the person who is  
10 responsible for trading and most large FMCs that  
11 maintain large electronic trading systems would  
12 have a database that would collect this  
13 information associated with the user IDs. But  
14 there -- as electronic trading has moved from  
15 screens into automated trading, that kind of  
16 one-to-one association between a user ID and a  
17 controller has broken down and, in fact, a lot of  
18 times a user ID does not map to a controller. So,  
19 you know, everybody says Tag 50 and that's the  
20 operator of the trading system, but that operator  
21 is not necessarily the controller. So we in FCMS  
22 try to keep track of who is behind the user ID and

1 try to get as much information as we can about  
2 them, for obvious reasons, but that doesn't  
3 necessarily mean that we have good information on  
4 whether they're a controller or not.

5 MR. FABIAN: I would reiterate that,  
6 too. I mean, a lot of the user IDs represent the  
7 person who is putting the order into the system,  
8 but that doesn't necessarily mean they are the  
9 person that's making the trading decision to  
10 initiate that order. So we don't definitely --  
11 and I'm sure everybody is aware of that -- don't  
12 want to confuse the so-called user ID authorized  
13 trader with the account controller, even though in  
14 some cases they may very well be the same.

15 MR. TUBRIDY: And then similarly with  
16 the controller information -- so first name,  
17 middle name, last name, date of birth. In the FCM  
18 books and records systems, that information is not  
19 standard at all -- if at all recorded. Certainly,  
20 there's an identifier for large trader reporting,  
21 but that identifier is often times limited to just  
22 that -- an identifier -- without the specific name

1 and address information.

2 MR. PUJOL: If we wanted to collect this  
3 information on a more systematic basis, and if it  
4 were easier to do so -- by synchronizing our  
5 definition with the large trader definition so  
6 that then you're expanding that existing process  
7 -- what would be involved in expanding that  
8 process?

9 MS. SUTPHEN: I think collecting that  
10 data you're basically lowering the threshold for  
11 that type of reporting. That's a manageable,  
12 finite project, but one issue you're going to find  
13 is that that particular report doesn't feed the  
14 trade register. That information is not on the  
15 trade register, so that would be only one piece of  
16 it. You would collect this information, but then  
17 how are you going to relate that to what you're  
18 actually seeing?

19 Is it the account number? Well, in some  
20 cases it would be. Is it the user ID? In some  
21 cases it would be. In some cases it would be  
22 neither of those things. So, I think the

1 reporting and collecting of that information --  
2 that's feasible. Big, but feasible. But, then  
3 again, what does that get you at that point? Is  
4 that going to get you what you really -- where you  
5 really want to be? No. I would say the answer is  
6 no.

7 MR. PUJOL: Just mechanically, what's  
8 involved in collecting the information? What are  
9 you doing to find that out?

10 MR. TUBRIDY: Well, currently, I believe  
11 this information is captured in the Form 40. So  
12 that, you know, that is in the written format at  
13 the moment. With a working group that's been  
14 formed by the FIA -- that several of us are part  
15 of -- we thought that maybe expanding the use --  
16 electrifying the Form 40 -- might be a good way to  
17 capture this information.

18 MS. SUTPHEN: But just to expand a  
19 little bit on what you asked, I was speaking to  
20 Jim earlier because we had a project at Newedge to  
21 obtain just this sort of information for the Tag  
22 50 values. With automated trading, our Tag 50s

1 weren't being properly populated in all cases. So  
2 we had to go to the customer and find out how many  
3 ATSS they had and what sort of trading system they  
4 were using and try to come up with a way of  
5 registering that. That was a very time consuming  
6 process. I would say to obtain that information  
7 from a customer would often take several back and  
8 forths over a number of days to get exactly the  
9 information we needed. And given the definition  
10 of controller in the proposed rule, I believe that  
11 that would be quite a time consuming process to  
12 obtain that information right now.

13 MR. MORAN: If I could point out, too,  
14 just in terms of CME rules, you know, we have a  
15 rule relating to manager discretionary accounts.  
16 So that situations where there is a formal power  
17 of attorney in place -- and, you know, firms have  
18 -- clearing firms have certain responsibilities  
19 with respect to supervising that activity and  
20 making sure, you know, everything is done  
21 correctly. The rule does exempt proprietary  
22 operations that have employee traders. So, even

1     though those -- the proprietary operation -- may  
2     empower their employees to enter orders and make  
3     trading decisions, we don't identify them as  
4     formal control -- quote, unquote -- controllers.  
5     And I think the same thing goes for large trader  
6     reporting. Normally, those names do not get on  
7     the CFTC Form 102. If there are multiple  
8     controllers, you know, firms can just write  
9     multiple and then just indicate who the, you know,  
10    the principal of the firm is, or the officer in  
11    charge of the trading activity.

12                 MS. BERDANSKY: I believe Frank wanted  
13    to make a comment.

14                 MR. FRANIAK: Yeah, can you hear me?  
15    Hello? Can you hear me? Hello?

16                 SPEAKER: We can hear you.

17                 MR. FRANIAK: Okay, great. I'm sorry,  
18    I'm getting -- every time I talk I get feedback.  
19    No, I was just going to say that in -- with regard  
20    to data points 2, 3, 4, 6 and 7, the administrator  
21    will have those in most cases, but as has been  
22    pointed out by one of the individuals there, very

1 often middle name will not be available.

2 MR. PUJOL: Frank, could you walk us  
3 through a little bit because, honestly, I'm not  
4 sure that all of us have the same level of  
5 familiarity with the role that administrator plays  
6 and sort of what function you could play in the  
7 future in an OCR report?

8 MR. FRANIAK: Sure. The fund  
9 administrator provides a variety of services to a  
10 fund. The most pertinent, I think, for this  
11 discussion is the administrator will do the  
12 accounting for the fund and -- depending on the  
13 level of service the administrator is providing --  
14 will also be processing investor data. So when an  
15 investor goes to subscribe to the fund, those  
16 documents come to the administrator. The  
17 administrator does the KYC AML work and, you know,  
18 a variety of other type things. So, again,  
19 depending on what type of administrator the fund  
20 has chosen, the administrator will have, A, the  
21 investor data and, B, the ownership percentages.  
22 One problem, however, that I need to point out is

1 that the -- if you asked me the ownership  
2 percentages for a particular fund say for  
3 September 1, I cannot tell you those ownership  
4 percentages very often until September 10 or 15 or  
5 20. In other words, there's a lag between the,  
6 you know, the end of the accounting period and the  
7 time when the accounting work is done. So I'm not  
8 sure what the timing of these reports needs to be,  
9 but for collective investment vehicles, there can  
10 be some, you know, issues with providing this data  
11 on a timely basis, depending what -- you know --  
12 what the definition of timely is.

13 The other point I would just like to  
14 make is that, you know, I apologize for not  
15 preparing an opening statement, but one problem I  
16 see with this whole structure as it has been put  
17 forward is that it'll be very onerous, I think,  
18 for small commodity funds, small pools. The  
19 reason for this is that very often they use  
20 smaller admin firms. They can't afford the  
21 services of a firm like ours, which is sort of a  
22 mid-tier firm, or definitely not a larger firm.

1 And that's because it's a cost issue. They often  
2 have, you know, a large number of investors and a  
3 small amount of assets. So they end up going with  
4 smaller administration firms that are not  
5 generally very advanced technologically. And I  
6 believe that these firms will have a very  
7 difficult time responding to some of the requests  
8 that you have here. As a result of that, I think  
9 it will force a lot of these smaller funds to move  
10 to larger firms that, frankly -- up to now -- they  
11 just haven't been able to afford.

12 MR. CRAPPLE: Thank you. I'd ask the  
13 question why the account controller is focused on  
14 individuals as opposed to a CTA or CPO firm and if  
15 -- are we looking beyond the CTA and CPO firm to  
16 see who the controllers are and how is that  
17 defined?

18 SPEAKER: Fair question.

19 MR. PUJOL: Let me move on for a second,  
20 but I do want to come back to that as -- in our  
21 sort of -- once we finish the chart, we can go  
22 back to some of those more complicated issues.

1           The next data point I want to talk about  
2    is number 15. This is something that again, Jim,  
3    you mentioned there were some issues around. But  
4    the concept we want to capture is, you know, what  
5    orders are being generated by an ATS and what  
6    orders aren't? And so if anybody has any thoughts  
7    on sort of the ability to capture that information  
8    and the best way to transmit it, or if it's just  
9    something that's not capturable in this context.

10           MR. COOPER: I would like to echo Jim's  
11    thoughts that -- I just -- I don't understand why  
12    you need that in this report, and it goes to an  
13    overall sort of reaction that I have -- although  
14    we didn't make an opening statement -- but it  
15    certainly is supportive of your efforts here as,  
16    you know, being in charge of the market regulation  
17    function. I think it'd be great to have enhanced  
18    surveillance of aggregate activity, of commonly  
19    controlled or owned accounts across multiple  
20    clearing firms. But when I think about the  
21    complications and complexities of actually --  
22    after we get this information identifying the

1 matches, I start being worried about the  
2 information that's coming in, especially hearing  
3 about dates of birth which would be great pieces  
4 of information to identify matches. I think --  
5 with that -- you could just go with last name,  
6 date of birth, and maybe zip code, and then you'd  
7 have a decent match to start identifying the  
8 matches. But I do -- I am concerned that as it's  
9 currently proposed, the proposal violates the KIS  
10 rule which is, keep it simple. Because, you know,  
11 what are we trying -- this is a surveillance --

12 MR. PUJOL: Can you leave out an "s"?

13 MR. COOPER: Yeah, that's for savings, I  
14 guess. Because it'd be so expensive anyway to  
15 build this, it won't be in savings. But I do  
16 wonder whether or not, you know, this is a  
17 surveillance tool, right? It's not -- do you  
18 really need, you know, the Post Office where  
19 you're going to serve the subpoena on the MOU  
20 factor, that you identify with it? If you can go  
21 to the clearing firm or the foreign broker, for  
22 that matter, through the FSA to get the address to

1 serve the subpoena, you don't have to have it all  
2 in this report.

3 MR. MORAN: It seems like what will  
4 happen is most accounts will come in -- as they  
5 can be either/or -- and, in this day and age, many  
6 accounts will use, you know -- sometimes they'll  
7 trade manually or they'll use some piece of  
8 functionality that comes with most front-end  
9 trading screens that might give them some kind of  
10 automated ability. So you'll be -- you'll have an  
11 indicator that says it could be either/or, and  
12 it's not really going to be a helpful piece of  
13 data.

14 You know, like I said, I think what  
15 we're talking about here is reference information  
16 of account owners and controllers. It is  
17 information about who's behind a certain account  
18 number. And that ownership information is a  
19 different set of data and it comes from a  
20 different place than the transactional type of  
21 data which relates to how somebody might be  
22 entering a particular order, on a particular day.

1 So that's where, you know, we feel that it just is  
2 not -- this is not the right place to add an  
3 automated system identifier.

4 MS. SUTPHEN: And I don't think that you  
5 -- any of the readily available identifiers will  
6 enable you to identify whether it's an automated  
7 system or not. It's not -- we don't use account  
8 number or user ID to identify those systems right  
9 now, so you would have to create some new -- brand  
10 new field and try to implement that. I mean, what  
11 -- we've all been trying to track that ourselves,  
12 but you're not going to have a nice, standardized,  
13 easy identifier the way things are done currently.

14 MR. PUJOL: Does anyone want to add  
15 anything there? Any CFTC folks on that one?  
16 Nope? Okay.

17 We have a series of questions now that  
18 have to do with sort of helping us integrate this  
19 into a large trader reporting system. These are  
20 data points 16, 17, and 18. In the spreadsheet,  
21 the special account number -- if one has been  
22 assigned -- an indication of whether this is a

1 reportable account; the date the account became  
2 reportable.

3 MR. COOPER: Again I'd ask why you need  
4 all this in this report? I don't know how the  
5 plumbing works necessarily in all the FCMs, but if  
6 there's a special account number, fine, you can  
7 report that. But then why do you need this  
8 additional detail, because wouldn't your other  
9 databases have some of that information anyway?

10 MR. PUJOL: No, that's a fair question.  
11 But let's just assume for a second that we did  
12 want to receive that information. Is it possible  
13 to receive it?

14 MR. FABIAN: Can I just ask a question?  
15 What is the difference between the special account  
16 number and the large trader reportable account? I  
17 mean, how are you identifying the number that is  
18 supplied on the 102? Which category you report --  
19 are you categorizing that? And is that the  
20 special account number or is that the large trader  
21 reportable account?

22 MR. MARTINAITIS: The number on the Form

1 102 would be the special account number. I think  
2 the second, number 17, large trader reportable  
3 account -- yes or no, basically -- I mean, there  
4 could be the case I presuppose that for a trading  
5 account number, a FCM could assign a special  
6 account number to that trading account right from  
7 the get-go before they even recognize that it's a  
8 reportable. I mean, we've seen that. We know  
9 some companies do do that because we have the data  
10 on it. So this next line, item 17, is basically  
11 saying, okay, even though you provided a special  
12 account number, you know, has that special account  
13 reached the reportable status for large trader  
14 reporting?

15 MR. COOPER: In which commodity over the  
16 last 30 days? I mean, why do you want that  
17 information on this report?

18 MR. MARTINAITIS: Well, part of it  
19 obviously can be used as a double check for  
20 completeness of large trader reporting.

21 MR. FABIAN: The question I would ask is  
22 if some firms assign that account number, whether

1 it's a reportable account or not? And then it  
2 comes through on this report, it may be misleading  
3 as to whether that's a reportable account or not,  
4 when you compare it to, you know -- maybe there's  
5 a reportable account number assigned to it? It's  
6 not a reportable trader. And when you compare it  
7 to your large trader information, you say, oh,  
8 looks like maybe this one we're not receiving  
9 large trader information and, in fact, there's no  
10 reason to receive large trader information. So it  
11 seems like it might be somewhat confusing as well.

12 MR. TUBRIDY: In terms of what's  
13 available, if -- when you submit large trader  
14 information, there's an account associated with  
15 that large trader reporting. So from an FC  
16 perspective, that's available. If a special  
17 account number is assigned, then that would be  
18 available as well, but the date the account  
19 becomes reportable is not available. And if you  
20 think about what Karl just mentioned, is it could  
21 be reportable today, not reportable tomorrow, go  
22 for months and not be reportable, then pop back

1 up. You know, it's just not a data point that the  
2 systems are capturing.

3 MR. PUJOL: Gary, do you have anything  
4 further you wanted to say or ask about the date?

5 MR. MARTINAITIS: No, not on the date,  
6 no.

7 MR. PUJOL: All right, on the account  
8 number?

9 MR. MARTINAITIS: No, actually, one  
10 question I have goes all the back to item number 1  
11 --

12 MR. PUJOL: Oh, go for it.

13 MR. MARTINAITIS: -- and that's the  
14 trading account number. And as Sebastian has  
15 said, that's the trading account number that's  
16 actually coming to the CFTC on the Trade Capture  
17 Report. And I think a few people have mentioned  
18 today that those exact same account numbers are  
19 known by the FCMs, and I was wondering if that's  
20 really true? Do the FCMs really know the exact  
21 account numbers that are in the Trade Capture  
22 Report that the CFT receives?

1           MR. MORAN:  If you're referring to  
2   execution accounts versus final clearing accounts  
3   -- I mean, I think there could be two different  
4   firms involved.  So one firm can execute, but the  
5   trade really is cleared and carried at a different  
6   firm.  And it is that second firm that actually is  
7   carrying the customer account, and has the  
8   relationship, and holds the customer account on  
9   its books, that we're proposing be identified in  
10  this process.  Certainly on the transactional  
11  records there'll still be a record of the  
12  executing firm, but again, the executing firm may  
13  not know who that ultimate customer is and they  
14  may not have all the information behind that  
15  account ownership.  They may be dealing with, say,  
16  an account controller which could be a CTA or  
17  something of that nature.  They're executing the  
18  trade, and then they give the trade up -- pursuant  
19  to a give-up agreement -- to another firm and  
20  that's where it actually ends up in the account  
21  where it's going to be cleared.  So what we're  
22  proposing is that would be the account identified

1 as the account owner.

2 MR. TUBRIDY: Just to add to that, I'm  
3 going to be given a few minutes at the end to walk  
4 you through some examples of, I think, what you're  
5 after, Gary. And that is, does the trade register  
6 -- the trade capture information -- tie directly  
7 back to the trading account number at the FCM?  
8 And there are times when it doesn't tie directly  
9 back, but it is traceable. And so I'll walk you  
10 through that with some slides that I prepared,  
11 whenever you want.

12 MR. PUJOL: How long would your  
13 presentation take with the slides that you  
14 prepared?

15 MR. TUBRIDY: Probably no more than 10  
16 minutes.

17 MR. PUJOL: It might be beneficial to go  
18 through that now and then save some of our  
19 questions until afterwards, after you're finished.

20 MR. TUBRIDY: Okay, I'll be happy to do  
21 that. Did everybody get this document? I think  
22 we have a few extra copies up here if anybody

1 needs it.

2 MR. PUJOL: I can have it for you on the  
3 screen here as well. Just give me some cues for  
4 the pages.

5 MR. TUBRIDY: Okay. Just a little  
6 background on this and myself I should have given  
7 in the beginning. I'm Ray Tubridy. I'm with  
8 State Street Global Markets, but I'm here  
9 representing this FIA Working Group that has been  
10 formed to address the OCR requirements. So  
11 everything I say is my opinion and not that of  
12 State Street and the opinions of this committee  
13 that we form.

14 These are preliminary. This is working  
15 -- this group we formed is a Working Group, and  
16 we're working very hard to try to come up with  
17 recommendations, or being able to just deliver  
18 what the requirements are seeking. One thing I  
19 will point out that it is a little bit difficult  
20 within this group -- working towards an end goal  
21 -- that we're not really clear what system  
22 capabilities exist on the CFTC side, so we are

1 somewhat handcuffed in terms of some of the  
2 solutions and the recommendations that we are  
3 making. So please recognize that we're kind of  
4 working a little bit in the dark.

5           So the background on these slides  
6 pertains to processes or process practices that  
7 FCMs employed to get trades cleared. As I read  
8 through the OCR proposal, the reliance on the  
9 trade registered data was what jumped out at me,  
10 as being a potential disconnect in being able to  
11 tie back the trade registered data to the actual  
12 large trader information. And the reason for that  
13 is basically it falls into two categories. You  
14 have what firms use or refer to as short codes  
15 where trades flow through various systems, whether  
16 they be front-end trading systems or through  
17 executing brokers or wherever the trade source may  
18 come into play. That then, ultimately, gets  
19 converted at the end of the day by the broker's  
20 systems internally so that the account reference  
21 in the registered data is a reference for that  
22 client, specific for that client, but it's not the

1 ultimate residing or resting place of the trade on  
2 the FCM's books.

3 So that's just a little bit of  
4 background. I'll walk through the slides, and it  
5 should become clearer what I'm describing.

6 So, on slide number 2, it's titled  
7 "Give-Up Trade." Client A places an order with an  
8 executing broker. The executing broker places  
9 that order to the Exchange with a reference  
10 number, 12345, which to the executing broker  
11 identifies Client A. For executing broker on the  
12 register, the executing broker's register, you  
13 will see 12345. The executing broker back office  
14 then will allocate that trade to the clearing  
15 broker through the clearinghouse and they may  
16 reference another -- in most cases reference  
17 another account that the clearing broker will  
18 recognize. So in this case, they allocate the  
19 trade to Client A, short code ABCDE. Clearing  
20 broker sees that trade in the clearinghouse  
21 system, has rules built to recognize that --  
22 whether they be people, processes, or system

1 processes.

2           They see that trade in ABCDE and they  
3 accept that trade and then in their system, they  
4 add to that ABCDE a prefix of 123. So the client,  
5 the clearing broker's client, gets a statement  
6 that says 123ABCDE. And that's what the clearing  
7 broker and the client then use for settlement  
8 purposes, highlighting the fact that the clearing  
9 broker's register will show ABCDE and that trade  
10 will not tie directly back to the bookkeeping  
11 entry in the FCM's books. Any questions on that?

12           MR. GOLLEY: Yeah, I have a question.  
13 In this diagram, what is the Trade Capture Report  
14 account number?

15           MR. TUBRIDY: I'm sorry?

16           MS. SUTPHEN: He wants to know what ends  
17 up on the Trade Capture Report.

18           MR. TUBRIDY: The Trade Capture Report,  
19 which -- it's the register, the trade register --  
20 for the clearing broker will be ABCDE.

21           MS. BERDANSKY: So that's what would  
22 show up on the Trade Capture Report we're getting

1 from the Exchanges?

2 MR. TUBRIDY: Yes.

3 MR. MORAN: Well, from the Exchange we  
4 would show you both the executing level and the  
5 clearing level. So you'd see both in different  
6 lines of data.

7 MR. GOLLEY: So in this example we'd see  
8 12345 in one field and ABCDEF -- or ABCDE -- in  
9 another field?

10 MR. MORAN: On a different line of data  
11 you would see those two different account numbers.  
12 One would be the executing broker's line. The  
13 other would be the carrying broker's transaction.

14 MR. GOLLEY: Thank you.

15 MR. TUBRIDY: And let me just say it  
16 again that this is -- these are practices that  
17 firms have employed over the years. So it's not,  
18 you know, the ABCDE is an identifier for a  
19 specific client which is following the rules.

20 MR. PUJOL: Let me interrupt you because  
21 I want to make sure I haven't misunderstood  
22 because Jim, you're saying that -- I mean, this

1 slide here refers to trade registers shows ABCDE,  
2 but Jim, you're saying it shows both 12345 and  
3 ABCDE? Is that right?

4 MR. MORAN: When the executing firm  
5 submits the execution, there'll be a line of data  
6 that gets recorded in the trade capture. But then  
7 there will be another line which is called a  
8 give-up record, which basically is an  
9 equal-and-opposite record that undoes that first  
10 transaction and accomplishes the sending of that  
11 transaction to the carrying broker. We call these  
12 give-up transactions. And then the carrying  
13 broker, when they accept the trade, populates a  
14 line in their database saying that they have  
15 bought or sold whatever the trade is. So it  
16 essentially gets transferred from the executing  
17 broker to the carrying broker. And that happens  
18 during the trading day. And typically by 7 p.m.  
19 All that is done, and the final clearing cycle is  
20 run.

21 MR. TUBRIDY: Okay. The next slide  
22 shows the second category I was speaking about

1 that does not fully reveal the ultimate resting  
2 place for the trade. It pertains to average price  
3 trades. So again, the client places an order with  
4 the executing broker and the executing broker  
5 executes that order and, due to the market, is  
6 executed over multiple prices and expected to do  
7 so. And so the client has instructed the broker  
8 that this will be averaged at some point later in  
9 the day when the order is completed or orders are  
10 completed. So the executing broker will record  
11 that execution identifier for that client as  
12 APS12. The executing broker's back office will  
13 allocate that trade to the clearing broker as  
14 123APS12. The clearing broker will claim it as  
15 123APS12.

16 So on the executing broker's register  
17 that Jim just described, you'll see on the  
18 executing side and the clearing side the same  
19 thing, 123APS12. But that's the ultimate resting  
20 place for that order, then it gets processed on  
21 the clearing broker's side, away from the Exchange  
22 system within the vendor's system, that has an

1 application for average pricing trades internally.  
2 And so they take that APS -- or that 123APS12  
3 trade across all executed portions of the order,  
4 average it, and provide the weighted average price  
5 to the ultimate resting place in my example,  
6 123ABCDE. So you have just --maybe in simple  
7 terms, you have a bunch of trades that are coming  
8 into you under this identifier, 123APS12, that get  
9 combined and a weighted average price is  
10 calculated. So you have one transaction for the  
11 one account. One weighted average price goes to  
12 another account entirely, which is 123ABCDE. And  
13 this is very typical.

14 This happens every day -- firms are  
15 doing this, average pricing trades. Typically,  
16 what they do is they'll take in all the trades in  
17 this single account -- that they get from the  
18 executing broker -- and they will average it and  
19 allocate it across multiple accounts internally.  
20 Those accounts internal are never recognized on  
21 the trade register.

22 MR. GOLLEY: Ray, in this example,

1 Client A receives one transaction, but in the  
2 clearing broker there's multiple transactions,  
3 multiple trades, that are ultimately being  
4 reported with different account numbers on them.  
5 And we'd want to have the OCR data available for  
6 all the individual accounts in addition to Client  
7 A. Am I correct?

8 MR. TUBRIDY: Well, I believe that's  
9 what you want but the system doesn't -- the  
10 Exchange system doesn't ever see those trades in  
11 the detailed accounts. And that's the point I'm  
12 trying to highlight.

13 MR. GOLLEY: So there's no record of the  
14 individual accounts that made up the sum of --

15 MR. TUBRIDY: There is on the FCM's  
16 books.

17 MR. GOLLEY: But not at the --

18 MR. TUBRIDY: Not in the register, not  
19 in the Trade Capture.

20 MR. COOPER: Ray, is this always done,  
21 or usually done, in the context of a CTA or one  
22 account controller? Is there doing a magic

1 account program, for instance?

2 MR. TUBRIDY: It is for one account  
3 controller, yes, but the controller can control  
4 multiple accounts.

5 MR. FAY: Can I jump in right here now?  
6 In what we see in the Trade Capture Report, which  
7 is our trade register, the new format -- we get  
8 every single trade execution and then the register  
9 does an allocation offset/onset for the average  
10 pricing.

11 MR. TUBRIDY: Okay. And real quick,  
12 just to illustrate one more scenario, again, it's  
13 a process that firms have adopted to kind of  
14 supplement, maybe, missing information, or do  
15 things because the systems don't fully support  
16 what ultimately has to be done for the client. In  
17 this case, Client A executes a trade with short  
18 code ABCDE. The client will also -- so this is a  
19 situation where the client is self executing and  
20 placing orders with their executing and clearing  
21 broker -- so the broker will execute a trade for  
22 that same client, but using a different short

1 code, UVXYZ.

2           At the end of the day, those trades will  
3 be shown in the trade register or the Trade  
4 Capture Report as ABCDE or UVXYZ, exactly how they  
5 were executed. But the FCM will run a process at  
6 the end of the day that takes both of those  
7 accounts and flips them to the account 123ABCDE.  
8 And the reason for this is typically there are  
9 different commission structures depending on who's  
10 executing the trade. And so you use the multiple  
11 accounts to identify which execution direction  
12 this came -- the trade came from -- and then you  
13 commission it appropriately.

14           MR. NOWLIN: It's kind of hard to look  
15 at this in the abstract, but I believe that in the  
16 Trade Capture Report through the allocations that  
17 we're actually capturing all this information --  
18 as Jim Fay said earlier, you know -- with the  
19 onsets and offsets, we're able to track give-ups,  
20 transfers, all sorts of -- in average pricing in  
21 our allocation, which is in the allocation block  
22 of the TCR. And I'd be happy to entertain more

1 discussion about this. We can go into real world  
2 examples. We can pull up the data and show you  
3 some allocations, including give-ups, average  
4 pricing, and transfers, but I believe we're  
5 capturing those account numbers.

6 MR. TUBRIDY: You're capturing a lot of  
7 it, but you're not capturing all of it. And  
8 that's what I wanted to alert you to. When I read  
9 the proposal, this is -- and I worked in  
10 operations for many years -- I know there's some  
11 information you're not capturing.

12 MR. GOLLEY: What is happening at the  
13 FCM that's not happening -- that's not happening  
14 at the DCM, in terms of this multiple account?

15 MR. TUBRIDY: Well, the simplest example  
16 is the average pricing. It's -- the firms are  
17 average pricing the trade using their own systems  
18 and not using the Exchange systems. So there is  
19 no back-and-forth communication between that  
20 process and the Exchange process, and so you don't  
21 get the ultimate detail.

22 MR. ANGUISH: The firms have the choice

1 whether they use the clearing system to do the  
2 average pricing or whether they do it at the firm.

3 MR. TUBRIDY: And so typically if the  
4 trades that were done to be averaged are for that  
5 FCM's clients solely, they'll use their internal  
6 system. If it's to be distributed through other  
7 clearing brokers, they'll use the Exchange system.

8 MS. BERDANSKY: There seems to be a  
9 little bit of disconnect here, I think, between on  
10 the CFTC side and what we have and, I think, what  
11 Ray believes that we have. And I'm wondering -- I  
12 think the Exchanges that we probably made the most  
13 progress with on the Trade Capture Report are CME  
14 and ICE. So I'm wondering if Mark and Jim maybe  
15 want to add to this and clarify?

16 MR. MORAN: You know, I think what Ray  
17 is pointing out here is there are a lot of  
18 different variations. This average price example  
19 is actually an average price and a give-up at the  
20 same time. You could also have average pricing  
21 where it's just one firm involved. You can have  
22 average pricing where, you know, the firm uses its

1 own system and then brings the trades back. So  
2 there is some complexity. I think in general,  
3 though, the Exchange rules require that the owning  
4 account does come into the Exchange. And, in  
5 fact, there's a process called Post Execution  
6 Allocation Rule that was changed, you know, three,  
7 four, or five years ago -- something like that --  
8 where the CFTC and the NFA have rules that allow  
9 managed account groups to do an allocation after  
10 the fact.

11 And those, you know -- that is one  
12 circumstance where you might see an execution  
13 number that is different from, you know, the end  
14 allocations which come in through the give-up  
15 process and sometimes through the average pricing  
16 system as well, or sometimes both.

17 MR. TUBRIDY: Just to talk to that  
18 point, in terms of the rule, the firms take the  
19 approach that the trade has to have a client  
20 identifier. And these short codes and these  
21 average price accounts are client-specific  
22 identifiers. They're just not the ultimate

1 account that the broker settles with the client.

2 MR. FABIAN: I think the point that Karl  
3 made is worthwhile and from my experience -- and I  
4 worked with Ray for a couple of years -- it's a  
5 CTA or a CPO where they're making the trading  
6 decision. They place an order. It gets multiple  
7 fills. It comes back into an account that trader  
8 owns. And then internally it gets broken out to  
9 other accounts that are controlled by that trader,  
10 but we don't necessarily see those.

11 MR. GOLLEY: Ray, on the example that  
12 you've given, who's the counter party in that  
13 transaction? Is it the clearinghouse themselves  
14 or what do they identify as the account  
15 counterpart? I mean, who's on the other end of  
16 that trade?

17 MR. TUBRIDY: If the trade is executed  
18 by another broker and given to the clearing  
19 broker, the counter party is -- the counter party  
20 for the clearing broker -- is the executing  
21 broker. But once the trade settles, at that point  
22 the counter party is the CME or the Exchange.

1 MR. ANGUISH: Once it clears?

2 MR. TUBRIDY: Once it clears, yes.

3 MR. MARTINAITIS: So in this particular  
4 example here, going back to this again, with the  
5 FCM -- if we gave FCM account number UVXYZ, would  
6 they be able to identify the trader -- the owner  
7 of that account? Would they recognize that  
8 account?

9 MR. TUBRIDY: Yes.

10 MR. PUJOL: Ray, did you want to walk us  
11 through the data elements chart that you have  
12 here?

13 MR. TUBRIDY: No, I think you guys --  
14 with this chart that we started with, we're  
15 capturing all of this information. I think it's  
16 redundant. Although, you know, what I will just  
17 point out that what we did was we took the OCR  
18 requirements and we identified the reporting  
19 vehicles that we believe they already exist in or  
20 might be expanded to support what might be  
21 missing. So I don't think -- unless you want me  
22 to go through it -- it's somewhat redundant.

1           MR. PUJOL: Okay. All right. I think  
2 just in the interest of time, I'm going to skip a  
3 few of these items and I want to talk about,  
4 obviously, something that's on our minds -- and  
5 I'm sure yours as well -- omnibus accounts. And I  
6 just want to open it up to in general -- we  
7 realized this would have a significant impact on  
8 those accounts and just start off by just your  
9 thoughts on -- I'll share with you a little bit of  
10 our thinking.

11           One of our concerns was, if we don't  
12 bring in omnibus accounts -- I mean, not only the  
13 merits of having that information -- but if we  
14 don't bring them in, then you're creating an  
15 incentive to trade through omnibus accounts.  
16 That's an assumption that we're making. If you  
17 want to -- we're interested now in your feedback  
18 as to whether or not that is a valid concern or  
19 not?

20           MS. SUTPHEN: I'll make one comment.  
21 When an FCM allows a client to have an omnibus  
22 account, if it's a -- you know, the FCM -- if it

1 wants to have a relationship with someone that's  
2 profitable for them and know their customer, et  
3 cetera, omnibus accounts are generally used in  
4 cases where the FCM has an economic disincentive  
5 to be the direct intermediary with the end user.  
6 So it's not -- I don't think that any FCM would be  
7 really comfortable with having any kind of large  
8 customer go through some other broker's omnibus  
9 account. I think they would prefer to have the  
10 relationship themselves, in general. It's not,  
11 you know -- I think -- I don't think omnibus  
12 accounts are generally used to hide trading  
13 activity. It's really just a matter of  
14 aggregating a lot of trading activity from other  
15 -- maybe other countries or smaller entities where  
16 it makes sense to aggregate them to an omnibus  
17 account level.

18 MS. BERDANSKY: Could you envision a  
19 situation, though, if this proposal goes through  
20 to a final rule where people really might not want  
21 it disclosed who owns that account -- or it might  
22 be an incentive where maybe in the past it hasn't

1 -- but to actually just hide it through the  
2 omnibus account?

3 MS. SUTPHEN: You know, omnibus accounts  
4 have been around for so many years and they  
5 certainly haven't been used that way. I don't  
6 think the FCM would be too comfortable with that,  
7 honestly. I mean, it's their balance sheet at the  
8 end of the day. I don't think they want some  
9 unknown entity putting their balance sheet at  
10 risk.

11 MR. MORAN: I would say, first of all,  
12 you know, that there's additional cost if someone  
13 was going through multiple different firms rather  
14 than directly through one firm. So that's kind of  
15 a disincentive. You know, the other thing that  
16 Exchange rules allow for -- I mean, if we have a  
17 need to get beyond, you know, what's in the  
18 omnibus account, I think a large trader -- the  
19 rules relating to large trader reporting  
20 accommodate for this, and certainly on the  
21 transaction side, as well. If we saw an omnibus  
22 account engaging in certain activity, we right

1 away would be asking to identify, you know, what's  
2 behind that omnibus account? And we always --  
3 within the DCM rules we have that power to do so  
4 -- and clearing firms would be obligated to assist  
5 us in that process. And in the event that they  
6 didn't cooperate, you know, we could, you know,  
7 disconnect them or, you know, not allow them to  
8 trade on the markets. So, you know, I think there  
9 are a lot of disincentives for that to happen  
10 already. And, you know, certainly it's something  
11 that we'd have to watch for -- that somebody could  
12 do an abuse through an omnibus account; we are  
13 always going to vigilant on that part.

14 But the majority of business coming  
15 through, omnibus tends to be more small, retail  
16 accounts. And, you know, there's a whole lot of  
17 structure within the industry for this to exist.  
18 And, you know, provides incentives for smaller  
19 firms to go out and raise business -- foreign  
20 firms to come into the markets and, you know, to  
21 basically shut off that -- or tell the foreign  
22 firm that they had to turn over all of their

1 accounts to a U.S. clearing firm -- would be a  
2 huge disincentive for business to come to the  
3 markets, which generally would not be a good  
4 thing.

5 MR. FOLEY: I would say I think, too,  
6 you have a concern especially in the foreign  
7 markets that the accounts may be coming in through  
8 a foreign broker which in turn has omnibus  
9 accounts on its books. That foreign broker isn't  
10 going to always know who the underlying customers  
11 are. The foreign broker may have -- there may be  
12 laws, privacy laws, in the countries there that  
13 would prohibit the foreign broker from sharing  
14 that information on a routine basis, as opposed to  
15 through the MOUs that CFTC and the SEC have  
16 entered into. And so you might end up actually  
17 closing out a fair amount of foreign business from  
18 the U.S. -- I'm sorry, into the U.S. -- and you  
19 might also have a case where if the customer is  
20 disclosed to the U.S. FCM, that that U.S. FCM  
21 would then be required to be registered in that  
22 foreign country, and that would then put that FCM

1 subject to conflicting regulation and just would  
2 not be workable, I think.

3 MR. FABIAN: ICE has similar rules that  
4 Jim spoke of requiring clearing members to either  
5 get the information or assist their clients in  
6 getting -- the omnibus clients -- in getting the  
7 information to the Exchange. We quite often have  
8 the need to request information about an omnibus  
9 account and rarely do we run into situations where  
10 there are any issues with respect to providing  
11 that information when requested.

12 MR. PUJOL: The privacy concerns that  
13 were mentioned -- so you don't face them?

14 MR. FABIAN: Sometimes. Depends on  
15 which country you're requesting the information.  
16 The information that's coming out -- sometimes  
17 they, you know, they have to consider their local  
18 jurisdiction laws and regulations, but, you know,  
19 we have ongoing conversations with them and  
20 eventually we usually end up getting the data.

21 MR. OTT: And Sebastian, we've also  
22 noticed during our electronic auditor reviews in

1 which we request the auto trail for a particular  
2 account the clearing firm will say, well, that's  
3 actually an omnibus account on our books -- and  
4 can't say it has or has not experienced any  
5 problems at all -- with actually having the  
6 nonmember omnibus account cooperating with us to  
7 get the information we need for the electronic  
8 audit trail.

9 MR. PUJOL: Jim, you mentioned a concern  
10 I want to make sure that I understand in addition  
11 to the privacy issues, to the extent they arise.  
12 You mentioned people may not want to reveal the  
13 customer to the FCM, right? The foreign broker,  
14 for example? Can you -- is that a competitive  
15 concern, that they just don't want to share the  
16 customer list? Or what's the --

17 MR. MORAN: Yeah, I think I was  
18 referring to the competitive thing where if a, you  
19 know, foreign FCM has a lot of customers and they  
20 have to identify all those to the U.S. broker, you  
21 know, what is their role? I mean, that's, you  
22 know -- they may just decide rather than bring

1 that, you know -- promote certain markets to their  
2 customers -- they'll just promote other markets  
3 where they don't have to go through that kind of  
4 procedure.

5 MR. PUJOL: Does anybody want to talk  
6 any further about omnibus? No?

7 Once last thing I wanted to go back to  
8 -- George, you had raised a question a while ago.  
9 I think it was you, maybe it was Kevin, with  
10 respect to the treatment of CPOs and CTAs and who  
11 the controller is there? Is that right? Could  
12 you just sort of bring that to our attention again  
13 if it's --

14 MR. CRAPPLE: In our business we have  
15 total discretion over all the accounts we manage  
16 and decide where the proposal of -- we don't have  
17 to disclose information about the ultimate account  
18 owners unless they're 10 percent owners of a pool,  
19 which is a very unusual situation in a big, public  
20 pool -- that would really never be the case.

21 So I'm looking at the form and it --  
22 instead of -- and, of course, we're a large trader

1 and we have an NFA number and all, but the account  
2 controller information all seems to be ended in  
3 individuals. I guess I'd ask why and how many  
4 individuals in a CPO or CTA are providing this  
5 data?

6 MR. PUJOL: So basically your point is  
7 you have just a large number of controllers and  
8 how --

9 MR. CRAPPLE: Well, we have about -- we  
10 have a substantial -- quite a few shareholders of  
11 the company.

12 MR. PUJOL: Okay. All right.

13 MR. COOPER: Well, also a sophisticated  
14 trading advisor might be trading an account or a  
15 fund around, you know, around the clock and have  
16 three different shifts a day of traders minding  
17 the account. I just don't know why you'd need  
18 that information in this report? You have the CTA  
19 entity. I don't think this report can ever be --  
20 if you try to make this report be the alpha to  
21 omega for Division of Enforcement to just bring,  
22 you know, bring an enforcement action -- just

1 based on the data that comes out of this report --  
2 I think you're never going to get this off the  
3 ground.

4 So, again, I would say keep it simple  
5 and try to give yourself a functioning tool. You  
6 know, maybe you can build on it later, but just to  
7 try to get something off the ground that is a  
8 useful tool both for you and for the market  
9 regulation functions of the Exchanges, I think  
10 would be a better way to go.

11 MR. PUJOL: We're going to take a break  
12 in a few minutes and move on, and then after that  
13 we'll move on to our second sort of series of  
14 topics. But before we do that, I just wanted to  
15 give anyone a chance if there's anything that's  
16 sort of been left unsaid in terms of data points  
17 that should or should not be reported, or that  
18 would be very problematic to report, or that you  
19 think could be -- we could get to the same place,  
20 in terms of unique identification in a more  
21 efficient manner than what we've discussed here?

22 And one question that we had sort of

1 thought of at one point is, for example, instead  
2 of sending us the names and addresses and all  
3 these things to try to get to a unique identifier,  
4 would there be an appetite for an industry-  
5 created unique identifier, for example? Just want  
6 to open it up to just, you know, whatever you want  
7 us to take away as we go back and think about what  
8 our next step should be.

9 MS. SUTPHEN: In the Working Group I  
10 think we've all agreed that it would be nice to  
11 have some kind of industry standardized unique  
12 identifier. I think our caveat is that this would  
13 be something new that would require major  
14 re-architecture of lots of different systems, and  
15 it couldn't be implemented overnight. So, you  
16 know, I don't have a problem with the idea of  
17 unique identifier. I think it's a good idea. I  
18 just think it's something that we need to phase in  
19 on a practical timeline.

20 MS. BERDANSKY: Do you think what you  
21 said that it would take some time to phase in, but  
22 it's something that people may have an appetite

1 for, is there a preference for that? I mean, I  
2 think we've acknowledged in our proposal that even  
3 as proposed, we think this would take a while to  
4 implement. Do you think --

5 MS. SUTPHEN: More than 18 months. And  
6 I think, you know, there's been some dancing  
7 around here, but I think the definition of  
8 controller really does need to be tightened up a  
9 bit before we come up with this unique identifier  
10 because I think right now trying to impose it on  
11 our existing definitions is quite difficult.

12 MR. TUBRIDY: Just one other thing that  
13 I wanted to point out. Within the group that  
14 we're working on, we've, you know -- and I've read  
15 and it was very clear in the proposal when it  
16 comes to talking about costs associated with  
17 supporting this initiative -- that you want very  
18 specific costs, and we're trying to get to that  
19 but we're a ways away from that. But in our first  
20 polling of 13 firms doing an average  
21 implementation of costs and ongoing costs, it  
22 averaged to about \$18 million a firm which was --

1           MR. PUJOL:  Are those costs -- I mean,  
2   if we modify the proposal in some, you know -- in  
3   certain ways -- where's the biggest savings?  You  
4   know, if you were to take a look at those \$18  
5   million, is there some specific thing we're  
6   requesting or two or three that are the bulk of  
7   that or are these sort of IT costs that would have  
8   to be incurred no matter what to get even a little  
9   bit of this information?

10           MS. SUTPHEN:  They're not really IT  
11   costs, per se.  They're actually the data input  
12   and the maintenance of the static data is the bulk  
13   of the costs.  So insofar as you could simplify  
14   the data requirement and reduce it, obviously  
15   maintaining it would be much simpler and much  
16   cheaper.

17           MR. PUJOL:  And when you say reduce, you  
18   mean a smaller number of accounts?

19           MS. SUTPHEN:  Smaller number of accounts  
20   and smaller number of controllers for start, and  
21   then possibly data that we already have as opposed  
22   to data that we haven't been traditionally

1 collecting in the past.

2 MR. PUJOL: You talked about that there  
3 might be an appetite for an industry-created  
4 identifier. Have your discussions reached a point  
5 where you think about who's creating it, how it's  
6 distributed?

7 MS. SUTPHEN: It's funny because there's  
8 been some back and forth in the Working Group.  
9 The Working Groups consist of people like me who  
10 generally work on the front-office side and have  
11 to assign user IDs and trading platforms, and  
12 people like Ray who work on the back-office side  
13 and assign account numbers and do allocations, and  
14 we both are passing it off to each other. So I  
15 would say -- not unlike what my colleagues on the  
16 Exchanges have done today -- so I would say we're  
17 not quite ready to propose that yet.

18 MS. BERDANSKY: It doesn't sound much  
19 different than CFTC and what division is going to  
20 do what --

21 MR. PUJOL: Are DCMs part of those  
22 conversations?

1 MS. SUTPHEN: Absolutely. The Working  
2 Group has been -- the FIA Working Group has  
3 consisted of people from the Exchanges, people  
4 from the FCMS, and people from other interested  
5 parties, including vendors.

6 MR. MORAN: On the topic of the unique  
7 identifier, I mean I think, you know, our industry  
8 has had the account number for many, many years.  
9 We have large trader reporting for many, many  
10 years. We have a lot of experience. We have a  
11 lot of systems and expertise built up -- both at  
12 CFTC, at the Exchanges, at the firms -- and we  
13 believe that we have the data points that we need  
14 to do this job well and that it really would not  
15 be worthwhile to have to go and create a whole new  
16 structure, a whole new identifier, and then try to  
17 get every account registered with some unique  
18 identifier. That would be just such a gargantuan  
19 task, that it would be, you know, very expensive  
20 and very time consuming. Like I say, I think we  
21 can already do the job with the data that we have  
22 currently.

1 MR. FABIAN: Just for point of clarity  
2 on the FIA Working Group, I know there are some  
3 Exchanges involved. ICE Futures has not been  
4 involved --

5 MS. SUTPHEN: That's not true -- on the  
6 Working Group?

7 MR. FABIAN: Yes.

8 MS. SUTPHEN: ICE Futures has been  
9 involved.

10 MR. FABIAN: Has ICE Clear U.S. been  
11 involved in it?

12 MS. SUTPHEN: Yeah.

13 MR. FABIAN: Okay. ICE -- it just came  
14 to my attention yesterday that there was a Working  
15 Group. Our names have been added, but ICE Clear  
16 was added, ICE Futures was not. Just one point of  
17 clarity, that's all.

18 MR. PUJOL: One thing that hopefully  
19 will be addressed in the comments, but I just  
20 haven't given any thoughts right now, what your  
21 ideas are around a middle ground between every  
22 account being reported and just the large traders

1 because I think that -- or at least want to make  
2 sure that you guys are sort of -- in your comments  
3 that that get some thought because I think  
4 inceptionally we want to do more than just large  
5 traders, but, you know, we are open to some --  
6 open to tests around how we define that more.

7 MS. SUTPHEN: I mean, as Jim suggested,  
8 volume traded may be an interesting criteria to  
9 add because you might get some of the proprietary  
10 trading groups that don't go home with large  
11 positions at night, but do impact the markets.

12 MR. PUJOL: Does anyone have anything  
13 else? All right then. Let's take say a 15-minute  
14 break and then we'll reconvene? Thank you.

15 (Recess)

16 MR. PUJOL: All right, we're going to  
17 reconvene and get started again.

18 MR. GOLLEY: Good afternoon again, and  
19 thanks again for coming to participate in a panel  
20 and, more appropriately, for coming back from  
21 break. My name is Jerry Golley and I'm the deputy  
22 director for systems and services at CFTC, so my

1 role is technical. And what I'm really interested  
2 in is hearing about the processes that take place  
3 already to communicate from the data sources all  
4 the way through to the DCM and ultimately to CFTC.

5 At CFTC we're intimately aware and  
6 knowledgeable about the process, the communication  
7 that happens between the DCM and CFTC, but we want  
8 to explore more in depth about what happens before  
9 we ever get the data.

10 So the purpose of this topic area is to  
11 get a clear understanding of the OCR rule and how  
12 it might be implemented. There are three areas at  
13 a high level we want to talk about. One is how  
14 will the DCMs provide the data to CFTC -- and we  
15 kind of have a good understanding of that and I'm  
16 going to kind of outline how we picture that  
17 happening. I want to understand what coordination  
18 would have to happen between the DCMs, the FCMS  
19 and, ultimately, the data sources. And then,  
20 also, the third topic would be privacy and  
21 technical security and how that might be  
22 implemented and what role CFTC might play to

1 ensure that privacy and that technical security.

2 So I'd like to begin by summarizing my

3 current view of how it might work from the

4 DCM/CFTC view. The end result would be that the

5 DCM would provide CFTC with the data file on a

6 weekly basis via a secure FTP. The precise format

7 of that data file would be defined by CFTC shortly

8 after the rule was adopted. Current thinking is

9 that that format would be a FIXML data format.

10 The first OCR data file received from

11 each reporting entity would constitute a master

12 file containing all the required data for the

13 trading account numbers present in the Trade

14 Capture Report during the past 30 days. Each

15 subsequent OCR would identify the weekly

16 additions, deletions, and amendments to the master

17 file. Given that all the desired data element may

18 not currently reside with the FCM, we want to get

19 a better understanding of how the DCM might

20 obtain, maintain, and secure that OCR data?

21 So to begin, what I'd like to do is talk

22 about -- and have you guys tell us -- what is the

1 data flow from the data source to the FCM to the  
2 DCM, currently, just from the standpoint of where  
3 Client A starts? They are a brand new client.  
4 They registered with FCM. How do they do that?  
5 How do they then go to the next level to -- you  
6 know, all the way through to the process so that  
7 the end result -- Client A ends up with the  
8 account number that's at the Trade Capture Report?

9 MR. PUJOL: Jerry, if I could add one  
10 thing. It might be helpful to maximize our  
11 understanding if you assume a situation where your  
12 client is the greatest possible number of steps  
13 removed from the DCM.

14 MR. TUBRIDY: Should I start from an FCM  
15 perspective? I'm boarding the client and then  
16 hand it off to the Exchanges? So I'm boarding a  
17 client -- you go through your typical KYC  
18 information, agree on your legal documentation,  
19 get all of the checks through from the KYC credit,  
20 what have you, and once all the requirements that  
21 the firm has outlined have been satisfied, you  
22 open the account. And you open the account within

1 the system, recording the data that you've  
2 collected into the back office system. And then  
3 at that point, I think, is where FCMS do things  
4 differently.

5           There's, you know, some very basic  
6 things that are governed by rules and laws, but  
7 there are some free- form type information that  
8 can be added or can be omitted and you're not  
9 necessarily putting all the information in the  
10 same order. But, ultimately, what you put into  
11 the system will drive all of the proper  
12 communication to the client, to the Exchange, and  
13 to the CFTC, for large trader reporting purposes.  
14 But I just wanted to emphasize that, you know,  
15 within the system, you know, there's lines of data  
16 that are available to populate and there's some  
17 different approaches to how that data is  
18 populated.

19           MR. GOLLEY: Is there a standardized  
20 data collection effort for the FCMS? I mean,  
21 across all FCMS, are they collecting the same  
22 amount of data, the same information?

1 MS. SUTPHEN: No, I would say not.

2 There's some general things you have to collect  
3 obviously, you know, net worth and name and  
4 address and tax IDs and things like that that I'm  
5 sure everybody collects, but different firms have  
6 different standards for what they want to know  
7 about their customer. You know, trading styles,  
8 things like that might vary quite a bit by firm.

9 MR. TUBRIDY: But one thing -- and this  
10 is one of the debates we had in our Working Group  
11 -- was that, you know, in the name and address  
12 portion of the system, you'll have six lines that  
13 you can populate the data in. And some firms may  
14 choose to use the first line for maybe -- just to  
15 reference the controller -- not required, but  
16 that's how they kind of keep track of the  
17 controller -- and then put the name and address  
18 information in subsequent lines. But one thing  
19 I'll point out is that the system itself knows --  
20 you define within the system -- the mailing  
21 address. And so the system then points to the  
22 right lines within this kind of free-form area

1 that can give what the true mailing address is.  
2 So that is available.

3 MS. SUTPHEN: One other point. The Tag  
4 50, the operator IDs, that's not in the back  
5 office system. There's some exceptions that that  
6 data is held in kind of a customer relationship  
7 management system or in a support system. It's  
8 not, it's rarely held in the back office.

9 MR. GOLLEY: Okay. And then in your  
10 experience, is the communication between the  
11 client and the FCM electronic or paper?

12 MR. TUBRIDY: Well, it's a combination.  
13 You know, you do a lot through e-mail with filling  
14 out documents and, you know, sometimes the  
15 documents are filled out, you know, using a  
16 program or they're scanned PDFs that are just  
17 e-mailed.

18 MR. GOLLEY: Okay. And then the next  
19 step is the communication between the FCM and DCM.  
20 What's the mechanism, if you will?

21 MR. TUBRIDY: At that point there is no  
22 specific communication about clients until the

1 client hits a reportable level. And once the  
2 client hits a reportable level the 102 is  
3 requested and that information is exchanged using  
4 the 102 form.

5 MS. SUTPHEN: Yeah. We're the ones who  
6 turn on the switch on whether they can start  
7 trading or not and processing the trades. At  
8 least in the U.S. the Exchange doesn't really give  
9 a go-live for a specific account. They assume  
10 we're doing that.

11 MR. GOLLEY: Going back to the first  
12 section, the first topic area, I had a question  
13 about the special account number. And we  
14 identified that the FCMS knew that special account  
15 number, do the DCMS also have privy to that number  
16 already?

17 MR. MORAN: Yeah, I mean, just to go  
18 back to, you know, the issue of the mechanism of  
19 relaying the data. First of all, there currently  
20 is no mechanism where this stuff routinely comes  
21 in an automated way. The point I was making  
22 earlier, if an account becomes reportable for 102,

1 we send out a request for 102 which basically is a  
2 hard copy form. It may come to us via e-mail but  
3 usually firms are creating those by having a  
4 person actually type or write the information in.  
5 And then they e-mail it to us and then we have to  
6 have a keypuncher type that into a database.

7           So our proposal really is, kind of, that  
8 if what we want to build is an automated way to  
9 report account ownership and control information,  
10 you know, it really makes sense to have that 102  
11 process and the OCR process as one. And  
12 basically, you know, because once you get the OCR  
13 reports in you will have, you know, most of the  
14 information you need that's on the 102 form.  
15 Maybe not everything. And maybe some of the stuff  
16 that's requested on the 102 is a little bit  
17 obsolete and that could be revised as well, but,  
18 you know, the bulk of it, and the key stuff -- the  
19 benefit I think for the industry would be, you  
20 know, firms could automate their processes more  
21 and so, instead of having people that are actually  
22 receiving these requests for 102 and writing out

1 forms, you know, they can have an automated  
2 process that does that on their behalf. And from,  
3 you know, being a receiver of the data at the DCM,  
4 or the CFTC, you would also have the benefit of  
5 receiving the data electronically and not having  
6 to have somebody keypunch it.

7           Every time, you know, a person touches  
8 it and has to, you know, keypunch or whatever, or  
9 write out things, you know, there's an additional  
10 error point that could be introduced. So by  
11 having the stuff come off automatically, you're  
12 eliminating those points of mistakes and errors.  
13 So, again, we think we would definitely have to  
14 build something like this. The mechanism doesn't  
15 exist, but, you know, the idea would be that it  
16 would cover both of these reporting bases.

17           MR. GOLLEY: The problem with the 102 as  
18 I understand it is that it's only required for  
19 large traders. And if you have significant  
20 activity happening at the transaction level by a  
21 specific trader, we wouldn't be able to capture  
22 who they are. And if they were, you know,

1 performing those trades on a set of accounts to  
2 disperse it so it was not recognizable as somebody  
3 doing a whole bunch of stuff that would be hidden.

4 MR. MORAN: Well, the idea would be if  
5 we had -- if we set the threshold at a volume  
6 level, as soon as an account reaches a certain  
7 volume, and I presume that would be, you know, at  
8 or below the reportable position level, then you  
9 would have an automatic identification of that  
10 account come in. So instead of, you know, when  
11 looking at large trader reports you might see a  
12 new account shows up one day and it's unknown to  
13 your system and so you have to send out a request  
14 saying please identify this account, it may take  
15 the firm, you know, a week or two to respond to  
16 that request. So, you know, for two weeks you  
17 don't really know who that account is. Obviously,  
18 you can make a phone call and get it immediately,  
19 but if it came in automatically -- say, every  
20 Friday, you know -- it would automatically be  
21 populated and most likely would be populated long  
22 before the account becomes reportable.

1           And your proposal includes both  
2     identifying the reportable account number and the  
3     trading accounts. This is basically a key to  
4     what's the relationship between the reportable and  
5     the trading account side. So that information  
6     would come in and you'd have both sets of data  
7     that could be easily populated in a database  
8     automatically.

9           MR. GOLLEY: I asked the question a  
10    moment ago, if the DCM knew the special account  
11    number for every account? And the answer as true.  
12    Yes, if it was a large trader they would know the  
13    special account number on the large trader. Is  
14    that correct?

15           MR. MORAN: Currently, yes, that's  
16    correct.

17           MR. GOLLEY: But that information is not  
18    pushed through to the TCR. Is that correct?

19           MR. MORAN: That is correct.

20           MR. COOPER: I'd put one caveat on there  
21    -- if they're reportable on your exchange. So,  
22    someone could be reportable in ICE, but not

1 reportable on a product on CME. Then, obviously,  
2 the 102 form might not go to CME or to MIC Liffe  
3 US.

4 MR. GOLLEY: Okay. Thank you. Okay, so  
5 if this rule were imposed, what collaborations  
6 between reporting entities and the root data  
7 sources do you envision would be necessary to  
8 implement the OCR?

9 MS. SUTPHEN: Who wants to go first?

10 MR. MORAN: I think we would have to  
11 have a collaboration with the -- I mean, certainly  
12 with the firms, the DCMs, and the CFTC, as well.

13 MR. GOLLEY: So what would -- do you see  
14 CFTC kind of creating a forum to facilitate that,  
15 or is it directed -- is it managed from the DCM,  
16 and CFTC is invited?

17 MR. MORAN: I don't know if that makes a  
18 whole lot of difference, but I know that if part  
19 of the arrangement is that data has to be provided  
20 to the CFTC, certainly your technology people  
21 would want to be present and understand, you know,  
22 what -- how the data is going to be set up, what

1 the protocol is for transmission?

2 You know, you mentioned FIXML.

3 Currently there is no FIXML report for this; we  
4 would have to create one. So we would have to  
5 define the data elements of the FIXML. We would  
6 have to go to the FIXML Standard Committee, get  
7 that approved, and then, you know, publish a  
8 document. And this would be a collaborative  
9 effort that would involve, you know, all of the  
10 exchanges, all of the firms, and the CFTC as well.

11 MR. COOPER: Yeah, I'd agree with Jim.  
12 There would need to be a standard -- a set of  
13 standards that would be industry-wide so the FCMS  
14 -- even with just one standard, one format, one  
15 set of protocols around timing and whatnot is  
16 burdensome enough, but the exchanges couldn't have  
17 separate formats, et cetera.

18 MS. SUTPHEN: And you would have to get  
19 our large vendors involved in this as well because  
20 it would involve some pretty substantial changes  
21 to their systems.

22 MS. BERDANSKY: When you say your large

1 vendors, could you be a little more specific on  
2 what type of vendors?

3 MS. SUTPHEN: SunGard and, you know, the  
4 back office vendors. And also the trading  
5 platform vendors because, remember, this data has  
6 to get past -- the back office doesn't come in  
7 until the trade has already gone to the managing  
8 engine, so you're going to have to make sure that  
9 the trade -- the trading information -- gets  
10 conveyed on the trading API, as well.

11 MR. ANGUISH: That's if you want to see  
12 it on the trade register. If you want to look it  
13 up later you wouldn't have to have it on the trade  
14 (inaudible).

15 MR. GOLLEY: What are the primary issues  
16 that you believe -- that will require agreement  
17 among reporting entities and the reporting -- and  
18 the root data sources to implement the OCR? In  
19 other words, what are the issues that are going to  
20 be raised at that point?

21 MR. TUBRIDY: Jerry, one of the things  
22 that in the group we've debated -- maybe argued --

1 is the controller information. So today the CFTC  
2 collects that from the client themselves -- the  
3 controller themselves -- and that, you know, that  
4 is a piece of the information that, you know,  
5 we're kind of stuck on what to do. You know, we  
6 thinking amongst ourselves think, you know,  
7 electrifying the 102, doing the same with the Form  
8 440, would obviously make that information more  
9 useable across datasets. What are your thoughts  
10 on that?

11 MR. GOLLEY: I'm a technology guy so I  
12 just take the data in. (Laughter.)

13 MS. BERDANSKY: Remember what we were  
14 talking about earlier, one division kind of  
15 throwing it over?

16 (Laughter.)

17 MR. GOLLEY: Sebastian, I'd be  
18 interested to hear what you had to say.

19 MR. PUJOL: I've already had my turn at  
20 the mic.

21 MR. TUBRIDY: I was going to say I think  
22 the important thing to keep in mind, too, is that

1 in terms of the more you drill down from who the  
2 customer is to whom the controllers within the  
3 customers are -- the FCMs rely for that  
4 information on the customer. They have no way to  
5 verify most of that information that comes in, so  
6 the customer says, there are two controllers and,  
7 point of fact, there are 10. You know, the FCMs  
8 can't be responsible for knowing that information.  
9 That information, as Leslie said, we really should  
10 go from the customer straight to the CFTC.

11 MS. SUTPHEN: I mean, we have in our  
12 client document that they're responsible for  
13 letting us know who the controllers are and for  
14 verifying that traders are authorized. But, you  
15 know, practically speaking, they could have 15  
16 different people using the same user ID or same  
17 API and we wouldn't necessarily know that that was  
18 the case technologically. I mean, we have legal  
19 documentation in place and it says we have the  
20 right to audit it, but we can't -- we don't have a  
21 technological way of auditing that.

22 MR. FABIAN: From our point of view, I

1 mean, this may be the unpopular view, but we have  
2 stated that we thought that this reporting process  
3 should be going directly to the Commission. And  
4 from my brief knowledge of it, I mean, the Form  
5 440, as I understand it, is filed directly with  
6 the Commission. It doesn't really go through the  
7 FCM. So the controlling information is being  
8 provided to the Commission. And even though the  
9 102s also go to each of the reporting entities,  
10 you know, it seems like -- as has been raised  
11 before -- there's a divergence of an FCM having to  
12 report the five or six different reporting  
13 entities, when it would seem more efficient to  
14 report to a single location, and then a format for  
15 doing that is standardized with one entity.

16 Obviously, each of the reporting firms  
17 have to, you know -- and I'm speaking more with a  
18 bias from the reporting entity as opposed to the  
19 firms that have to report this because they're  
20 still going to have to report it, one way or the  
21 other, but at least they're reporting to one  
22 entity, as opposed to several entities.

1           And as I understand it, the Commission  
2 would be expecting each reporting entity to  
3 develop rules that require the information to be  
4 reported to the reporting entity -- which, again,  
5 leads to a situation where you have multiple SROs  
6 trying to enforce the reporting of this data. So,  
7 I mean, again, like I said, I think it may be the  
8 unpopular recommendation, but, you know -- ICE has  
9 said that we think it's appropriate for this to be  
10 reported to the Commission directly.

11           You've got the 102s, you get the Form  
12 440s, and you get the TCR information from the  
13 exchanges. And you can compile it and then, you  
14 know, we can get a feed of that from one location,  
15 one source, one dataflow.

16           MR. GOLLEY: Directly to the CFTC from  
17 whom?

18           MR. FABIAN: From the, excuse me, from  
19 the root data sources.

20           MR. GOLLEY: From the trader?

21           MR. FABIAN: The traders and the firms.

22           MR. ROGERS: I have a question. From

1 that viewpoint, where would ICE expect to get the  
2 data for its own purposes?

3 MR. FABIAN: Either the CFTC can send it  
4 to us as a reporting entity or exchange -- not a  
5 reporting entity in this case; it was an exchange.  
6 We could download it, but we'd only need for those  
7 accounts that trade on our exchange.

8 MR. PUJOL: I want to follow up on that,  
9 Mark. If -- how could we ensure, if we were to  
10 follow that model, that the trading account  
11 numbers coming through from the FCMS match the  
12 trading account numbers that are on the TCRs?

13 MR. FABIAN: Well, you would be  
14 requesting that information for them as part of  
15 the data and we'd be providing the trading account  
16 numbers, the clearing account numbers, and the  
17 trading to the execution account numbers to you,  
18 through the TCR.

19 MR. PUJOL: I think, and there's -- I  
20 know there's other people here around the table  
21 from the CFTC that know better than I do, but I  
22 think that we have had a problem in the past and

1 someone asked the question earlier, does -- would  
2 the FCM know exactly the trading account number  
3 that we get from the DCM? Because, at least, I  
4 know in past times when we've done comparisons,  
5 we've found that they're not actually identical.  
6 That oftentimes there is some additional content  
7 in the exchange-provided number, so that if you  
8 have computer systems here trying to align those  
9 things, it doesn't work.

10 MR. OTT: But we would have the exact  
11 same problem, wouldn't we?

12 MS. BERDANSKY: But wouldn't the  
13 exchanges then have the information to clean it up  
14 if we're giving it to the Commission?

15 MR. OTT: I guess, Rachel, my  
16 understanding is that in that trade cash report,  
17 basically everything we have is being flowed into  
18 the Commission. So I guess my question is, what  
19 information does the Exchange have that we're not  
20 giving to you? Because it was my impression that  
21 everything we had was being given to you.

22 MS. BERDANSKY: We get, you know -- we

1 do get the trade data that's coming through on the  
2 trade capture report, but if I understand this  
3 correctly from talking with other people, the  
4 Commission -- that in the past, it's just what  
5 Sebastian has said. The number that's come  
6 through on the trade capture report isn't  
7 essentially the same as the one that might be  
8 coming through the FCM. So, you all would  
9 probably be the best ones who actually would have  
10 the data to match it up.

11 MR. PUJOL: Joe, it's not that you're  
12 not providing the information. That number is  
13 there, but it might -- there might be some  
14 additional characters that have been added. Then  
15 our system doesn't recognize it as actually the  
16 same account number. And the presumption that  
17 we're making is that if the character is being  
18 added by the Exchange's system, then you would  
19 know sort of by what logic characters are added  
20 and you'd be able to remove them for that  
21 comparison.

22 MR. TUBRIDY: I think you're back on the

1 situation I was describing earlier, which is the  
2 short code and the average price trades where that  
3 will cause the trade register information or  
4 account to be different from the larger trader  
5 that we're submitting.

6 MR. KIRILENKO: We've run this, a little  
7 bit of test on this at one point in time where we  
8 did receive -- we asked the FCM to send us their  
9 -- the trading account numbers, I believe, would  
10 be in the trade register account. And then we, of  
11 course, matched it up against the trade register  
12 and, you know, they didn't match very much. And  
13 in fact, we had to send the account numbers we got  
14 in the trade register back to the FCM. And when  
15 they looked at them they go, well, these aren't  
16 really our account numbers. They look like trader  
17 IDs. I mean, I recognize some of the initials.  
18 They're initials of some of our traders. They're  
19 not really account numbers. So that's where some  
20 of the problem is that we saw. So --

21 MS. BERDANSKY: So I guess the question  
22 on our part is, you know, if this was to work,

1 that the data came directly to the Commission and,  
2 you know, didn't go to the Exchange, how are we  
3 going to clean it up? Someone has to be  
4 responsible.

5 MR. FABIAN: I guess the same way that  
6 we would be cleaning it up because --

7 MS. BERDANSKY: I think you all have  
8 more information than we have to do it because  
9 you're the ones who were originally passing this  
10 number along and you know how it gets changed in  
11 your system.

12 MR. COOPER: I think the FCM report,  
13 whether it's to the Exchange or to the CFTC would  
14 have to be reporting what both the short code, you  
15 know, and with the full account number, is because  
16 either we're going to have to ask that information  
17 or you're going to have to ask that information.

18 MR. FABIAN: And I'm not sure what is  
19 meant by information added by the Exchange? I  
20 mean, if we're being reported a short code -- as  
21 given a short code as the clearing code, that's  
22 what we would pass along. So, if later the FCM,

1 let's say, came to us and gave us account  
2 information and we see a full length account  
3 number -- where on our trade register we had a  
4 truncated account code -- we'd have the same  
5 question I think. So it's just a matter of who  
6 would go about saying, okay, there's a discrepancy  
7 here? Please explain why the account number that  
8 you have on your books is not what you're passing  
9 through on as the clearing account number on the  
10 trade register?

11 MR. OTT: And that's right. I mean, Dan  
12 just told me that we're not changing anything at  
13 all on the account numbers that the firm is  
14 passing through to us.

15 MS. SCHRAMM: Well, if I haven't  
16 convinced you already that the IBs really  
17 shouldn't be included in this at all, I suspect  
18 that getting a weekly report from 1,300 registered  
19 entities saying nothing has changed every week  
20 would convince you that they shouldn't be in this  
21 category.

22 MR. TUBRIDY: We talked about how we

1 might address this difference between the short  
2 code that's in the register versus the ultimate  
3 clearing account, client account. One idea was to  
4 provide those short codes -- and there are some  
5 hurdles with doing that just based on the systems  
6 that we have available -- but that was one idea.  
7 And that would get included in the -- I don't  
8 know. One idea was to include in the related  
9 accounts, which kind of ties back all of the  
10 accounts to the single controller based on that  
11 special ID. So that was one idea.

12 Another idea that was floated was the  
13 firms provide the register data to the CFTC, or to  
14 the DCM, or somebody. So we have all of that. We  
15 have it in the right format at the end of the day  
16 and so it is available.

17 MR. MORAN: We think it would be a lot  
18 of work to do this reconciliation process. It's  
19 not something that, I see me, as a DCM, would look  
20 forward to doing. It would be very expensive, but  
21 it is one of the reasons if you do all accounts  
22 and pick up all the very small retail accounts

1 that, you know, the cost becomes exponentially  
2 greater because you'll have to do this  
3 reconciliation, you know, with a greater number of  
4 accounts.

5 MS. BERDANSKY: Jim, could you even  
6 begin to estimate how much less your cost would be  
7 if we had a volume threshold, say of, you know,  
8 100 trades a day or something like that? Or 100  
9 trades in a week?

10 MR. MORAN: Yeah, I don't have --

11 MS. BERDANSKY: How that starts to  
12 affect the cost?

13 MR. MORAN: I think, for our response by  
14 October 7th, we'll work on that, but I don't have  
15 that information correct right now -- but we do  
16 know it would be very expensive.

17 MR. TUBRIDY: Just one point. The  
18 survey that we did in this working group to  
19 analyze the costs of the 13 firms that submitted  
20 information, those 13 firms represented 534,000  
21 accounts. So, just to kind of give you some idea  
22 of the magnitude of accounts.

1 MR. GOLLEY: On a related question tying  
2 directly to what you just said, what percentage of  
3 those accounts would be above a specific threshold  
4 of 100 trades a day or whatever?

5 MS. SUTPHEN: We did some work at  
6 NewEdge based on -- not on volume but on revenue.  
7 And that's the usual 80/20 rule but, I mean, of  
8 the -- you know, we had 50,000 accounts and less  
9 than 10 percent of them accounted for 90 percent  
10 of the activity. So that's probably a pretty good  
11 rule of thumb.

12 MR. GOLLEY: When you say activity, do  
13 you mean volume or transactions?

14 MS. SUTPHEN: We make money on volume,  
15 not positions. Well, on both if there's interest  
16 rates, but right now it's on volume.

17 MR. GOLLEY: Actually, Leslie, if I  
18 could ask sort of a follow up to something you had  
19 said previously, you mentioned you were collecting  
20 information with respect to a controller, but I  
21 guess the concern you've expressed is that that  
22 information is just -- you're asking for it. You

1 have no way of verifying. And I mean, is that  
2 basically the concern around controller -- that  
3 it's non-verifiable and, therefore, not worth the  
4 trouble?

5 MS. SUTPHEN: Well, I mean, the client's  
6 obligated to tell us who their controllers are. I  
7 mean, it's in our account documentation, but I'm  
8 just saying we don't really have a way of -- sort  
9 of, we have to trust them that they're giving us  
10 that information. We don't have a way of looking  
11 at the user IDs or the trading activity and  
12 necessarily identifying that there's multiple  
13 controllers.

14 MR. TUBRIDY: Maybe in a different  
15 example, if the client designates advisor ABC to  
16 be their controller, we don't know who at  
17 investment advisor ABC is making the trading  
18 decisions. That we don't have any access to. So  
19 we know ABC, but that's it.

20 MR. PUJOL: So those designations could  
21 be essentially -- they're not natural persons,  
22 they might be entities who then have -- okay.

1           MR. GOLLEY: Okay. So in the scenario  
2 when client A submits their new account, they're  
3 under the assumption that their data is going to  
4 be private and secure. With this rule we would  
5 pass that information on, the FCMs would hold it,  
6 all this confidential information. It would pass  
7 on to the DCM. The DCM would then report it to  
8 CFTC and there is an assumption of privacy and  
9 security throughout the process. What level of  
10 involvement, specifically regulation, might CFTC  
11 have to impose to ensure that privacy and security  
12 are maintained?

13           MS. SUTPHEN: You know, that's a  
14 difficult question to answer, but I will tell you  
15 that -- and Jim will tell you this, too -- we have  
16 had clients, particularly ones using algorithms  
17 that are extremely concerned about having their  
18 data reverse engineered and that's why they want  
19 to aggregate it as much as possible. So I think  
20 that it kind of argues for the end user reporting  
21 directly to you and not passing the information  
22 through either of us or the TCM because they're

1 concerned that either of us are going to reverse  
2 engineer what they're doing.

3 MR. PUJOL: Do you see a need or a value  
4 at all to CFTC regulations that might limit the  
5 use of that data by anybody who is sort of put  
6 through on its way to us?

7 MR. TUBRIDY: I'm sure it wouldn't hurt.  
8 You know, we are oftentimes specifically spelling  
9 out in the documentation that we will maintain,  
10 you know, strict security around the client  
11 information and not give it out to anybody other  
12 than the regulator, upon request. So something  
13 coming from you, you know, in this new world  
14 that's stating that it will be secure, I think  
15 would help the clients.

16 MR. MORAN: I mean, we do handle large  
17 trader data. We've been handling it for many  
18 years with a lot of protections. And I would  
19 presume that any requirement would be that the  
20 same protections would be placed on this data as  
21 well.

22 MR. GOLLEY: One of the primary reasons

1 why the Commission has proposed that the DCM  
2 report the data to us is the problem that when we  
3 get the trade capture report, that account number  
4 doesn't always seem to go back down the stream in  
5 the same format that we get it in. So we get the  
6 trade capture report with an account number and if  
7 we ask the FCMS, it's a different number, or they  
8 may not understand what we're asking for, et  
9 cetera.

10 So, in light of that, let's assume for a  
11 moment that we moved the requirement of the data  
12 from coming from DCM to the FCM, for example. And  
13 what -- at that point, what are the issues that  
14 would be involved that would have to be solved for  
15 data to make sure the data matched? Because  
16 ultimately, what we're trying to do is match our  
17 -- we're trying to identify the records at the  
18 transaction level. So if it pushed down, what are  
19 the data issues -- other data issues that would  
20 come up?

21 MS. BERDANSKY: I guess, and I would  
22 just add one more point to that, is that we've

1 heard from most of the exchanges at the table,  
2 their view is that maybe this really should be  
3 coming from the firms and not the DCMs. Do you  
4 all have a view that it should be coming -- does  
5 anyone have a view that it should be coming from  
6 the exchanges?

7 MS. SUTPHEN: Well, the trade register  
8 data is going to be standardized from the  
9 Exchange. If you start to ask us for it you're  
10 going to get it in -- right now in a very  
11 non-standardized way because we all capture it in  
12 different ways. So that would be one reason.

13 As to the account numbers flowing  
14 through and becoming consistent, I think we've  
15 tried to get that to happen ourselves for years.  
16 The give up process is fairly messy. It's not  
17 only that, brokers don't like to put long account  
18 numbers on before they put a trade in, so you have  
19 to give them something fairly easy to use or they  
20 won't use an account number. So there's all kinds  
21 of messiness in the business that makes it very  
22 difficult for us to put the ultimate account

1 number for the clearing firm on a trade before it  
2 goes in and make sure that it's attached to the  
3 trade the whole way across. We all would have  
4 liked that. Everybody in operations would have  
5 liked that, but it's -- we're a long ways from  
6 being able to do that.

7 MR. TUBRIDY: Yeah. I think that the  
8 simple answer is if you could rely on the register  
9 information completely then we wouldn't be talking  
10 about this. And so I think we'd have to go back  
11 to our Working Group and find out if, you know, if  
12 it's feasible to get that completely cleaned up so  
13 it could be relied on.

14 MR. ROGERS: Would the application of  
15 unique identifier make things better or worse in  
16 this circumstance? I mean, from a level of effort  
17 perspective?

18 MS. SUTPHEN: It would be better. It  
19 would be better, but okay, let's say we come up  
20 with a unique identifier. We have a lot of work  
21 to do to get that identifier onto the trades for  
22 all accounts and for all controllers. So, yes, I

1 mean, a unique identifier. You'd have to automate  
2 it so that people don't have to key it in. You'd  
3 have to set the trade up to begin. It would be  
4 not simple to implement. Once it's implemented it  
5 would be great, but it's not a one year process to  
6 get that in place.

7 MR. GOLLEY: I have a higher level  
8 question. What would the unique identifier  
9 identify? Would it identify the trader? The  
10 controller? The owner?

11 MS. SUTPHEN: I think you're supposed to  
12 tell us that, right? (Laughter)

13 MR. GOLLEY: All of the above. Okay,  
14 let's assume for a moment again we're back to OCR,  
15 it goes through the DCM. What systems can be put  
16 in place, or processes can be put in place -- now  
17 we're, you know, two years past implementation?  
18 How would it function from a standpoint of making  
19 sure that we get all the information we need? So,  
20 you know, day one we implement, we've got all the  
21 accounts identified for the past 30 days, what's  
22 the mechanism's process to make sure that ongoing

1 we continue to get those updates all the way  
2 through to the client?

3 MR. PUJOL: In that regard I think the  
4 proposal calls for a change report which is  
5 submitted only if there is a change. So maybe I  
6 don't know if either an addition or to Jerry's  
7 question, you know, is there a better way and  
8 something different to do other than that?

9 MR. COOPER: I would suggest that by  
10 reducing the fields to those that are kept  
11 electronically in customer -- you know, electronic  
12 customer static data so that then the systems  
13 could recognize a change, and then the system  
14 could generate -- when needed -- a change report.  
15 That is the best way. But to the extent that  
16 you've got 27 different data fields, some of which  
17 may live in different systems, some of which may  
18 exist only on paper currently, you're just asking  
19 for, you know, non-compliance and the system to  
20 fall down, basically.

21 MR. GOLLEY: Okay. So the assumption  
22 is, you know, the end of the week comes and the

1 DCM identifies 3,000 new accounts but they don't  
2 have the corresponding OCR. What would be triggered  
3 next? Would you -- that's kind of what I'm asking  
4 for, if somebody has to be accountable for the  
5 completion of -- the complete set data -- complete  
6 data set -- so the DCM is in a prime position to  
7 identify what's missing? There has to be some way  
8 of communicating down to the FCM to say we're  
9 missing this information. The FCM then has to  
10 have the ability to either pull that information  
11 from their files or contact the client and push it  
12 back up.

13 MR. COOPER: Jerry, I'm assuming that  
14 the CFTC would be looking to -- just to point this  
15 out -- that you're going to be looking to us to  
16 have sprung some sort of technology-driven  
17 exception report so we'll identify all the  
18 accounts that traded on our exchange in the  
19 previous week. And if we don't see it from each  
20 FCM, and if the system sees that we don't have a  
21 change report from a new one, then that's going to  
22 be an exception. But what can't be an

1 exception-driven process from the DCM would be if,  
2 you know, Sally Smith got married and changed her  
3 name to Sally Brown or Sally Smith moved from, you  
4 know, First Street to Second Street, obviously we  
5 can't do.

6 MR. TUBRIDY: Can I just back up to your  
7 previous question? And then I want to follow up  
8 on Carl's comment.

9 Talking about the unique identifier,  
10 another thing to consider is all the systems that  
11 would have to be updated to contain that  
12 identifier, you know, notwithstanding we don't  
13 know what we're identifying yet. But all the  
14 systems would have to be updated. Everybody --  
15 the communication between the firms and the  
16 clients, to give them that unique identifier,  
17 that's going to take a lot of time and a lot of  
18 coordination. But just, you know, just thinking  
19 about all the systems that you're going to have to  
20 change file formats for, order routing, execution,  
21 all of that. So it's a big undertaking. I'm not  
22 saying it's not the right ultimate idea, but I

1 would try to get there without changing every  
2 system that's involved.

3 In terms of, Jerry, I'm a little bit  
4 confused about what we're doing and the way you're  
5 describing the OCR reporting. Are you assuming  
6 that we're going to give you all of the accounts  
7 that are reportable, like within the last 30 days  
8 and then keep building on that as these accounts  
9 become reportable?

10 MR. GOLLEY: That's exactly right.

11 MR. TUBRIDY: Okay. Because we are  
12 doing that. In large trader, we're giving the  
13 reportable accounts.

14 MR. GOLLEY: It's going beyond that.  
15 Not just reportable from a large trader  
16 standpoint, but all accounts.

17 MS. BERDANSKY: I think we're using the  
18 wrong term. I mean, I think initially we had, you  
19 know, want to collect this for all the active  
20 accounts, whatever the past -- I don't know what  
21 number of days or months that we use?

22 SPEAKER: Thirty days.

1 MS. BERDANSKY: Within 30 days. But  
2 then, moving forward we'd get a weekly change  
3 file. If there's any, you know -- for any new  
4 accounts that have been added or, you know, any  
5 change to the old information -- a new address, a  
6 new controller -- that's what the change file  
7 would cover.

8 MR. PUJOL: And if nothing changes then  
9 you don't need to resubmit that data for that  
10 account.

11 MR. TUBRIDY: Okay. And you know, I  
12 guess to really pinpoint what needs to be done, I  
13 think we'd have to get this all, you know, on a  
14 white board, or something. But in terms of  
15 capturing some of the things that you said, like  
16 we don't have the controller right now, we don't  
17 have that information. We don't have the ability  
18 to tell you when an account goes reportable. It  
19 just appears in a file or on a report. And then  
20 we don't know -- we don't know when it comes off  
21 not being reportable either, you know, because the  
22 position just drops below the level. And so, you

1 know, systems would have to be enhanced to be able  
2 to capture that.

3 And then, in terms of changing account  
4 information, like, you know, simple things like  
5 you want to change the way an account closes out.  
6 You know, whether it's FIFO, or LIFO, or whatever?  
7 When you go into that table, the new account --  
8 the name and address table -- when you make that  
9 change on trades closing out, that'll generate a  
10 change report. And the change reports that the  
11 systems generate are really not very friendly in  
12 terms of telling you what was changed. So, you  
13 know, that would have to be improved, as well.

14 MR. GOLLEY: And just to reiterate, the  
15 OCR rule would encompass all accounts, not just  
16 large trader accounts. So when you have a new  
17 account -- I've made the assumption that a new  
18 account is established when you get a new client,  
19 new client A, or new client A begins a new --  
20 splits off into another -- I mean, what does  
21 create a new account?

22 MS. SUTPHEN: It's usually based on how

1 the client themselves wants to account for their  
2 trading. So very often they'll ask for new  
3 accounts to identify new trading strategies, new  
4 traders, you know. Gosh, we just -- we add -- I  
5 would say the bulk of the new accounts that we add  
6 are for existing accounts, not for new accounts.  
7 In a new account, sure, you're going to have new  
8 accounts -- numbers for new clients, but, you  
9 know, new clients, they don't get -- just a few  
10 week. It's not on the institutional side. So,  
11 most account numbers have to do with wanting to  
12 enable the client to do subaccounting of some  
13 sort.

14 MR. GOLLEY: And the number that's  
15 reported as the account number on the TCR, is that  
16 a number that's generated from the DCM or the FCM?

17 SPEAKERS: FCM.

18 MR. GOLLEY: So the FCM generates the  
19 number. The DCM reports it down to us. So, okay.

20 MS. SUTPHEN: And there is no  
21 standardization in that number. You probably know  
22 that already from looking at the trade register,

1 but it's -- even across -- I mean, I've worked at  
2 multiple firms on the street, as has Ray, and no  
3 firm follows the same protocol in how they create  
4 account numbers.

5 MR. TUBRIDY: Right. And the systems,  
6 too, feeding them. Like, one front end might have  
7 the account number left justified, right  
8 justified, filled with zeros, filled with, you  
9 know, whatever. And, you know, that's what you're  
10 seeing in the trade register.

11 MR. GOLLEY: Are some of them  
12 alphanumeric, too?

13 MR. TUBRIDY: Oh, sure. Yeah. But, you  
14 know, you'll see a lot of that -- a lot of that  
15 noise in the register file because the firm will  
16 be left justified and what the FCM has done is set  
17 up a rule that just pulls it in and right  
18 justifies it or just looks in certain fields. And  
19 so, there's lots of ways that that information is  
20 not connecting.

21 MR. COOPER: And also remember the way  
22 this is going to work, as you've written the rule

1 now. So Sally Smith opens an account on January  
2 2nd, doesn't trade for three months, so no report  
3 happens. Then she trades one lot on Komax Gold  
4 in, you know, the first week of May. So a report  
5 goes to CME, which is passed on to CFTC. Three  
6 weeks later, she trades one lot of gold on MIC  
7 Liffe US. We -- that's a brand new report that  
8 her FCM opened -- you know, creates and sends to  
9 us. MIC Liffe US, which we then pass -- so, I  
10 mean, it's going to be a bunch of -- it all  
11 depends on which exchange the account is active  
12 on. So it will be new reports and then -- you  
13 know, I don't know where the change reports go. I  
14 guess the change reports will have to go to those  
15 DCMs that have had a previous report, so the  
16 system would have to track all that.

17 MR. OTT: And I can't speak for the rest  
18 of the exchanges, but I can speak for Kansas City  
19 in that a large percentage of our volume is based  
20 on intermarket spreads between Kansas City,  
21 Chicago, Minneapolis. So it's going to be a huge  
22 number of accounts that we're going to report, CME

1 is going to report, and Minneapolis is going to be  
2 reporting. You're going to get the same  
3 information from three exchanges on a lot of  
4 accounts. And that's -- again, I'm sure other  
5 exchanges have similar problems, as well.

6 MR. GOLLEY: How -- if this OCR rule was  
7 approved, the proposal is that it would be  
8 implemented in 18 months. There's been some  
9 comments about that not being long enough. What  
10 would be an appropriate timeframe, and why?

11 MS. SUTPHEN: I think we'd prefer to  
12 finish doing our work, you know, we've got a  
13 comment that's coming back and I think we've been  
14 trying to put some estimates around that on  
15 timelines, and I don't think we're quite ready  
16 with that information yet.

17 MR. TUBRIDY: But one concern that's  
18 come out of the group is that with the Dodd-Frank  
19 legislation, and the work that is expected to  
20 onboard the centrally cleared swapped client, it's  
21 the same group of people that support that, for  
22 that initiative, as the OCR initiative, at all the

1 firms. So -- so we're really staring down a  
2 couple of big initiatives.

3 MR. GOLLEY: And trust me. At CFTC  
4 we're feeling that same pain.

5 MR. FABIAN: I'd reiterate that point as  
6 well. I mean, with the sum of the unknowns out  
7 there, you know, any estimate that we make now  
8 based on current information, you know, could  
9 change drastically based on future information,  
10 so.

11 MR. BOOTH: Just to add to that as well,  
12 I mean, don't underestimate the inability to  
13 control the vendors in this as well. It's not  
14 just the people who are in the firms and the  
15 exchanges, but, you know, the SunGards of this  
16 world because they're going to be busy on  
17 everything. We don't always have the influence  
18 we'd like over them.

19 MS. BERDANSKY: So if we were moving  
20 forward with this and we do convene an industry  
21 group, I guess what I'm hearing is it is essential  
22 to include the vendors, such as SunGard, and all

1 the various back office systems.

2 MR. GOLLEY: In the beginning comment  
3 area when people were talking there was, I think,  
4 a couple of different comments that there might be  
5 other ways to get this information faster.

6 Fundamentally, I view the OCR, or at least getting  
7 the ability to tie the transaction to the large  
8 traders, paramount to what we do at the  
9 Commission. So what are some of the ideas at this  
10 table of other ways we can get that connection  
11 created?

12 MR. TUBRIDY: Yeah, we've talked about  
13 that in terms of, you know, we know where the  
14 datasets are that have most of the data that  
15 you're requiring in OCR. Some of those, like the  
16 Form 440 doesn't maybe go quite as far as it needs  
17 to to support that but we think that, you know,  
18 one idea that was floated was enhance the dataset  
19 that the piece fits best in. So if it's  
20 controller information, enhance the Form 440. If  
21 it's client information or firm information,  
22 enhance the 102. And not knowing how your systems

1 work or how you're organizing the data when you  
2 receive it, you know, the thought was -- or the  
3 hope was -- that you could pull all of these data  
4 points together. Maybe you get three files today.  
5 Maybe you need to get five files. And maybe, you  
6 know, the fifth file might be a name and address  
7 information like from the firms or through the  
8 DCM, however it needs to flow.

9           You know, I mentioned earlier about  
10 trade files -- at the end of the day, we could  
11 provide you with a complete snapshot of all the  
12 trades. You know, you raise the point of, that  
13 would have to be reconciled with the register.  
14 But, so -- but anyways, that was one idea -- was  
15 fill it out. These are the things we're talking  
16 about with the Working Group and so we don't have  
17 a clear agreement or recommendation at the moment,  
18 but that's where we're headed.

19           MS. BERDANSKY: If I understand what  
20 you're saying, these ideas, they're all linked to  
21 kind of large traders. And again, I think that,  
22 you know, what we've heard today is, you know, you

1 really do need this for every trade out there.  
2 For the one lot. For the two lot. And we've  
3 heard you loud and clear. And as we said in the  
4 proposal, it's something that we are really  
5 seriously considering here and will take onboard  
6 in moving forward. But I think we have to be  
7 clear that, you know, going just, you know --  
8 identifying this for just large traders isn't  
9 enough either.

10 MR. TUBRIDY: Yeah. And I'm not  
11 limiting it to that. You know, we could give you,  
12 you know, our complete set of client information  
13 in the format, you know, and obviously this is,  
14 you know -- there's work that needs to be done in  
15 order to extract it and deliver it, but it's  
16 there. It's data.

17 Trades, you know, we could -- I mean,  
18 there's different ways to approach it. If you're  
19 looking for patterns of trading, or large volume  
20 traders in the day that go home with no position,  
21 you know -- producing reports that show that,  
22 that's not difficult either. But we can give you,

1 like I said, the complete list of clients, all the  
2 trades, all the positions, large trader, you know,  
3 small trader, whatever. I mean, the basic theme  
4 in our thoughts is that let's leverage what we  
5 have and try not to revamp systems if we can at  
6 all avoid it.

7 MR. ROGERS: So are you saying then  
8 there might be greater flexibility if we weren't  
9 constraining ourselves to the concept of just two  
10 types of file structures? Because I don't know  
11 that necessarily there is that constraint,  
12 necessarily. I mean, ideas around what something  
13 might look like would be very interesting to  
14 consider.

15 MR. TUBRIDY: Yes, that's what we're  
16 suggesting.

17 MR. ROGERS: All right.

18 MS. BERDANSKY: I think we would  
19 definitely invite you to include that. I know you  
20 all are still meeting and to include that in your  
21 comment. As John said, that's something that we  
22 would definitely consider and we'd want to

1 consider all possibilities and try to, you know,  
2 do this in a way that is, you know, it serves our  
3 needs but also serves your needs and is, you know,  
4 less burdensome.

5 MR. MORAN: I mean, I think -- just to  
6 make one more comment on that -- I mean, if we can  
7 leverage the existing systems and that's -- we  
8 definitely would need to do, make changes to meet  
9 this requirement in any way, shape, or form. It's  
10 the amount of changes that we would have to do.  
11 So if we included everything that's currently in  
12 the proposal it becomes a much, much bigger thing.  
13 If we can focus it on things that are more easier  
14 to perform, but yet still perform -- meet the  
15 objectives of getting, you know, a name on each  
16 transaction, or at least the larger transactional  
17 accounts, you know -- that's, I think, what we're  
18 hoping that we can do because that can be done  
19 with a lot less expense, in a much more reasonable  
20 time. Whereas, if we're starting to talk about  
21 bigger things, like having unique identifiers for  
22 every account, that's when you start getting into,

1 you know, just massive, massive projects and  
2 greatly increasing the risk that, you know, the  
3 project won't be successfully completed. So it  
4 would be much more -- it probably would be better  
5 for you and everyone here if we can make progress  
6 in a much more reasonable way, in a shorter period  
7 of time than to go many, many years without any  
8 progress, so.

9 MR. PUJOL: Jim, I'm not sure if I've  
10 heard different things from different folks here,  
11 but is everybody onboard with the idea that a  
12 unique identifier is or is not a good idea?  
13 Because it seems like I've heard, Jim, you've  
14 suggested that would add some work and maybe some  
15 of the FIA folks --

16 MS. SUTPHEN: Well, no, I mean, it's a  
17 good idea, but is it a practical idea, is, I  
18 think, what we're trying to get at. And I think,  
19 I mean, we've got to do some more work on that. I  
20 think, in all honesty, a new number that has to be  
21 assigned somehow or other is not a practical idea.  
22 So what we have to come up with is a unique

1 identifier that is some combination of existing  
2 data that can be mapped. I don't think we can --  
3 if we have to start tagging trades with brand new  
4 numbers -- it's a big project.

5 MR. PUJOL: So at that point it's  
6 preferable -- I know there's been some concern  
7 about date of birth, but at least name and address  
8 are preferable to you. Is that right?

9 MS. SUTPHEN: Yes.

10 MR. SHILTS: Well, just the idea about a  
11 unique identifier. There's probably a lot of ways  
12 you can go about getting that. Combining several  
13 pieces of information that you already have may  
14 give you a unique identifier if you know, you  
15 know, what firm, you know, their name, their  
16 account number, and you put all that stuff  
17 together and nobody at that firm has the same  
18 account numbers? If that's true, then that  
19 becomes a unique identifier. So I think just the  
20 idea about a unique identifier might not -- is not  
21 necessarily a brand new thing that we have to  
22 start generating. Just a thought.

1 MR. ANGUISH: Don't you want to --  
2 sorry. Don't you want to identify individuals  
3 though, even if it's across firms? I mean --

4 MR. SHILTS: Well, yeah.

5 MR. ANGUISH: Yeah. Well, so if, you  
6 know, the unique identifier would include the firm  
7 name, and the account number at the firm, and the  
8 person's name, and their dog's name. I don't  
9 know. Some combination.

10 MR. COOPER: Yeah, but to follow up on  
11 Keith's point, I thought what we were really  
12 trying to see is, Sally Smith's trades at Citi.  
13 Let's say she hammers the buy -- the bid -- and  
14 then, you know, moves the market and then gets off  
15 a big sell with a manipulated price. I thought  
16 that's what you were trying -- you know, in her  
17 Goldman account. Sorry. I don't mean to bring --  
18 reference any FCOs by name.

19 MR. PUJOL: Yeah. I know Keith  
20 represents (inaudible). I think you guys are both  
21 right because even if the identifier includes the  
22 name of two different firms then it's not unique

1 anymore. It's different. It's got --

2 MS. SUTPHEN: We struggle with coming up  
3 -- you know, the client names are free form text.  
4 Most of our systems are really not modern and so,  
5 if you put an extra space in there by accident, or  
6 whatever, you've got a brand new client. We tried  
7 to get around that by assigning a number to the  
8 client. But guess what? Depending on -- the  
9 London office may assign the number and then they  
10 open another account in Tokyo, and they assign  
11 another number and pretty soon you've got the same  
12 problem all over again. So, if you want to try to  
13 do that within a firm it's already difficult. If  
14 you're going to try to do it across firms it's  
15 probably pretty difficult.

16 MR. PUJOL: Right. I want to go back to  
17 something you were suggesting about, you know,  
18 there are potentially different reports that could  
19 be submitted that make this a little bit easier.  
20 And following up on John's point that we're not  
21 necessarily bound to two -- an OCR and a TCR are  
22 the different reports that you have in mind -- do

1 they still allow us to basically enrich the  
2 databases in which the TCRs reside? Or would they  
3 -- are you envisioning something that still has a  
4 sufficient connectivity to the TCR or is it such a  
5 separate report that you can analyze that report  
6 richly but you can't link it to other things?

7 MR. TUBRIDY: The idea -- yes. The idea  
8 would be to try to give you the same information  
9 you're getting out of the TCR. The problem, as  
10 Jerry points out, is that would have to be  
11 reconciled to the TCR. And maybe we'd have to  
12 come up with some kind of an understanding of  
13 what's involved in that. Today firms do reconcile  
14 their books to the TCR every single day. You  
15 know, not necessarily based on that account number  
16 though; based on, you know, the number of trades  
17 at a particular price in a particular contract.  
18 And so, you know, if we were comfortable with  
19 putting that responsibility on the FCM, if you  
20 were comfortable with that, and then the FCM  
21 provided you with an equivalent of the TCR -- each  
22 FCM provides that -- that would show you the

1 ultimate account number. So those are just some  
2 loose thoughts.

3 MR. PUJOL: No, no. I understand you're  
4 sort of thinking off the top of your head because,  
5 certainly, I think one thing we'd want to avoid is  
6 having, you know -- whereas we're trying to create  
7 increased connectivity between databases, I think  
8 we'd want to avoid a situation where we now have  
9 to have a third source that we independently  
10 analyze.

11 MR. TUBRIDY: Right. Yeah. No, I get  
12 that.

13 MS. BERDANSKY: I think the key for us  
14 is -- if we got those type of reports -- is just  
15 to be able to integrate it into our existing --  
16 you know, it, of course, would have to be  
17 standardized and like Sebastian said, really the  
18 ability to state -- to really integrate it into  
19 our system, so we can use it, you know, and have  
20 one big picture which is the goal of this whole  
21 project.

22 MR. TUBRIDY: And then if the data did

1 come from the FCM, would we then be able to  
2 capture that account partitioning that you  
3 identified in one of your diagrams? Would that be  
4 spelled out?

5 MR. PUJOL: We'd eliminate it, you know.

6 MR. TUBRIDY: You would show the  
7 aggregation?

8 MR. PUJOL: Yeah. We would show you the  
9 ultimate resting place for that trade. So you  
10 wouldn't see all the short codes or the APS  
11 suspense accounts that are used.

12 MR. GOLLEY: Okay. I think we're kind  
13 of trying to wrap it up, so I just want to -- I've  
14 kind of got -- I've got a better understanding of  
15 how this might play out, and some other ideas. Is  
16 there anybody that wants to say their last bit of  
17 peace? Rachel?

18 MS. BERDANSKY: You know, I just want to  
19 thank everybody. I know how much time that people  
20 put into thinking about these issues before  
21 attending and, you know, statements and  
22 presentations. And this has been helpful and we

1 certainly will take this onboard together with the  
2 comments.

3 MR. PUJOL: And I think, you know, we've  
4 said this in the proposal, but it's probably worth  
5 repeating, that we are certainly looking to be  
6 educated here. So the time and effort that you  
7 put not only into today but into your written  
8 comments I think will pay off because we will read  
9 them carefully and we will listen to what's being  
10 said. Thank you.

11 MR. GOLLEY: Thank you very much.

12 MR. COOPER: I'd just like to supplement  
13 our comments. Obviously we'll submit a written  
14 comment as well, but I guess I'd like to highlight  
15 a concern that -- you know, we've been through  
16 advanced notice proposed rulemaking a year ago  
17 now-ish, right? And now we have this proposed  
18 rule.

19 Thankfully, the comment period has been  
20 extended through October 7th, so thank you for  
21 that. But still, it seems like we're an awfully  
22 long ways down, sort of, the road towards

1 something when we're having, sort of, this level  
2 of still dialogue on, you know, basically white  
3 boarding -- what a solution will look like.

4 So I guess I have a concern about that  
5 because I think one thing that certainly comes to  
6 my mind out of this discussion is we need an  
7 industry-wide solution in a common format, common  
8 protocols, and it just seems like we're still a  
9 ways away from that.

10 And with, procedurally, the proposed  
11 rulemaking out there, it seems like we're close to  
12 the, you know, commission potentially acting when  
13 we don't really know how procedurally -- you know,  
14 how the systems are going to work.

15 MR. GOLLEY: As Rachel pointed out, it's  
16 kind of an educational process for us but the fact  
17 that this need has been there for multiple years  
18 indicates how important this relationship is. I  
19 mean, to get this OCR information is critical.  
20 And what we're trying to do is identify the best  
21 way to do it that will get us what we need that  
22 will impact the markets the least, so.

1 MS. BERDANSKY: I guess I would also add  
2 to that is that, you know, after getting the  
3 comments, looking at them and thinking about what  
4 was said today, that, you know, if we were to come  
5 up with a, you know, final rule that was  
6 dramatically different -- I mean, it's one thing  
7 to be dramatically different if we had, you know,  
8 all this stuff out here and we just narrow it  
9 down, but if it was going to fundamentally kind of  
10 change, you know -- yes, we're convinced it really  
11 shouldn't be on the exchanges to give it to us --  
12 we're going to go look to the FCMS -- then we  
13 would probably, I think very likely, repropose and  
14 have more opportunity for comment.

15 MR. TUBRIDY: I just wanted to say a  
16 couple of things. Thank you for bringing us here  
17 and listening to our concerns and your thoughts  
18 and, you know, the work that's gone into analyzing  
19 this.

20 You know, we would love to have  
21 representation from the CFTC on our Working Group  
22 to help, you know, work through these things

1 because we think that they're -- you know, like I  
2 said earlier, we can only go so far in what we can  
3 do versus what you're able to do on your side. So  
4 I just want to put that out there. We welcome  
5 your participation.

6 MR. MARTINAITIS: I do have one final  
7 question before we wrap it up. This is for IBs  
8 and CTA CPLs, if we turn our attention back to the  
9 28 data points that are in the currently proposed  
10 OCR, are any of those data points -- does that  
11 data solely reside at the IB level, or the CTA CPL  
12 level, or is it elsewhere, like at a FCM?

13 MS. SCHRAMM: Speaking for IBS, no.  
14 None of that information is exclusive to the IB  
15 level. The IB often, as we said before, will use  
16 a piece of government issued ID in order to know  
17 his customer in order to fulfill those  
18 requirements. But as long as the FCM has a  
19 certain type of paperwork they want filled out,  
20 they require certain information, they have equal  
21 information.

22 MR. PUJOL: All right. I think unless

1 anyone has anything further, thank you very much  
2 for coming, everybody.

3 (Whereupon, at 4:22 p.m., the  
4 PROCEEDINGS were adjourned.)

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