



Commodity Markets Council  
1300 L St., N.W. Suite 1020  
Washington, DC 20005  
Tel 202-842-0400  
Fax 202-789-7223  
www.cmcmarkets.org

**VIA ON-LINE SUBMISSION**

David Stawick  
Secretary of the Commission  
Commodity Futures Trading Commission  
Three Lafayette Centre  
1155 21st Street, NW  
Washington, DC 20581

February 7, 2011

**Re: Swap Data Recordkeeping and Reporting Requirements (RIN 3038-AD19); Real-Time Reporting of Swap Transaction Data (RIN 3038-AD08)**

Dear Mr. Stawick:

The Commodity Markets Council (“CMC”) appreciates the opportunity to comment on two Commodity Futures Trading Commission (the “CFTC” or “Commission”) proposed rulemakings regarding Swap Data Recordkeeping and Reporting Requirements<sup>1</sup> (the “Regulatory Reporting Release”) and Real-Time Reporting of Swap Transactions<sup>2</sup> (the “Real-Time Public Reporting Release”).

CMC is a trade association bringing together commodity exchanges with their industry counterparts. The activities of our members represent the complete spectrum of commercial users of all futures markets including agriculture. Specifically, our industry member firms are regular users of the Chicago Board of Trade, Chicago Mercantile Exchange, ICE Futures US, Kansas City Board of Trade, Minneapolis Grain Exchange, and New York Mercantile Exchange. CMC is uniquely positioned to provide the consensus views of commercial end-users of swaps and derivatives exchanges. Our comments below represent the collective view of the CMC’s members.

For the last decade, the regulatory philosophy at the CFTC has shifted from prescriptive regulations to core principles so as to provide futures exchanges with the flexibility needed to

---

<sup>1</sup> See 75 FR 76574 (December 8, 2010).

<sup>2</sup> See 75 FR 76139 (December 7, 2010).

offer effective products and services to their customers to compete domestically and globally with other exchanges. As a result, the industry has prospered and evolved. Nevertheless, CMC continues to recognize the need for meaningful regulation that maintains market integrity and the trust of the trading public. CMC believes the best-structured regulation must strike a balance by also promoting greater market efficiency and allowing exchanges to provide competitive risk-management tools for users. Based on the collective experience of our members, CMC strongly believes the principles-based regulatory approach has proven to be effective.

Specifically in the context of swaps data reporting, CMC believes transparency is a critical element of robust, liquid and competitive markets. We encourage the Commission to avoid a prescriptive regulatory model which would create detailed reporting requirements through duplicative methodologies. Such a system would impose significant and unnecessary costs on traders and end-users.

#### The Commission Should Adopt the Simplest, Most Efficient and Least Costly Available Alternative – DCOs Should Act as Warehouses for Cleared Transactions for Regulatory Purposes

The Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010 (“DFA”) amends the Commodity Exchange Act (“Act”) to, among other things, establish a comprehensive regulatory framework for the reporting of swap data, including real-time public dissemination of certain transaction information. The DFA directs the Commission to implement a comprehensive system of trade reporting and recordkeeping with respect to swap transactions.

CMC believes the CFTC should be focused on choosing the simplest, most efficient and most cost effective means available to implement the statutory directive it received from Congress. To do this, the Commission should attempt when it can to utilize existing structures rather than building from scratch. With respect to the requirements to make regulatory reports for cleared transactions, CMC believes the Commission should reconsider its current approach in favor of leveraging the existing advantages of derivatives clearing organizations (“DCOs”) more effectively. The existing over-the-counter swap repositories are better suited to act as regulatory warehouses for the uncleared market where reporting infrastructures to comply with the Commission’s do not currently exist.

DCOs are the natural choice to act as repositories for regulatory trade information for cleared transactions. The central purpose of the regulatory reporting requirements is to provide the Commission with access to the best audit trail available regarding swaps transaction activity. For cleared trades, this information will obviously be housed in DCOs. Requiring the industry to establish a redundant set of expensive connections with non-DCO swap data repositories (“SDRs”) for the purpose of making regulatory reports for cleared trades would be costly, inefficient and unnecessary. These costs are likely to be passed on to end users. DCOs that clear swap trades will by definition already have connections with the execution venues that match trades for clearing purposes. These connections can be efficiently leveraged for reporting purposes as well. After initial execution, all subsequent reportable information regarding a particular swaps transaction emanates from the DCO. It is more efficient to allow the DCO to maintain this information directly rather than require the DCO to make reports to a third party

who will maintain a duplicate set of records.

CMC's view is that the Commission should require the initial regulatory report for a cleared trade be sent to the DCO that is clearing the trade or to an SDR affiliated with such DCO. This approach is in accordance with the provisions of the DFA and would save the industry unnecessary expenses and operational difficulties.

#### Firms that Trade Only Exchange-Cleared OTC Swaps Should Not be Subject to Costly and Duplicative Data Reporting Requirements

CMC calls your attention to the reporting requirements on entities that are to be classified as Swap Dealers ("SDs"), yet only trade exchange-cleared over-the-counter ("OTC") swaps. As stated in a previous comment letter sent to the Commission, CMC is concerned the SD designation will add unnecessary burdens in the form of expensive and duplicative reporting requirements. CMC recommends utilization of the DCOs to fulfill the swap data reporting requirements of firms only participating in cleared OTC swaps. CMC is fully supportive of the Commission's efforts to improve market transparency, but believe in this case there is no need to impose costly and unnecessarily duplicative reporting requirements to achieve the goal.

#### The CFTC Must Harmonize Reporting Standards with Other Regulators

The CFTC and the Securities and Exchange Commission ("SEC") have both proposed complicated rule sets regarding swap data reporting applying to the swap transactions falling under their respective jurisdictions. These proposals are similar but not the same. If both proposals were adopted as proposed, market participants would be required to build reporting systems that comply with two separate regimes. This result would be costly and unnecessary. We urge the agencies to coordinate their efforts to ensure there are no material substantive differences between their reporting requirements.

The need to coordinate with other international regulators is just as important. There are other initiatives moving ahead in Europe and elsewhere regarding swap data reporting requirements. These efforts should be coordinated to the extent possible. Market participants that deal in the swap markets often deal in multiple jurisdictions and are therefore subject to multiple regimes. The Commission has an opportunity to establish compatible standards with other regulators considering the same issues and should take advantage of this opportunity to produce reporting standards that are synchronized.

#### Scope of Implementation Must Be Considered When Setting Effective Dates

The Commission must also establish realistic compliance dates for their reporting requirements. Coding new reporting systems to comply with an entirely new reporting regime is a herculean back office project that should not be underestimated. The development of unique counterparty and transaction identifiers alone will take years, not months. The Commission must account for these realities and set compliance dates that allow sufficient time for the industry to, first, agree on necessary reporting details such as the required system of identifiers and, second, allow adequate time for technology build-outs to occur after the necessary standards have been

developed.

CMC thanks the Commission for the opportunity to comment on this matter, and we look forward to working with the Commission in the weeks and months ahead. If you should have any questions, please do not hesitate to contact me at [christine.cochran@commoditymks.org](mailto:christine.cochran@commoditymks.org) or via phone at (202) 842-0400 – extn. 101.

Sincerely,

A handwritten signature in black ink, appearing to read "Christine M. Cochran". The signature is fluid and cursive, with the first name "Christine" and last name "Cochran" clearly distinguishable.

CHRISTINE M. COCHRAN  
President  
Commodity Markets Council